



भारत का राजपत्र

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 15 सितम्बर, 2010

का.आ. 2478.—सरकारी भवन (अनाधिकृत कब्जे की बंदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार एतद्वारा नीचे सारणी के कालम (1) में उल्लिखित अधिकारी को, भारत सरकार का राजपत्रित अधिकारी होने के कारण, उक्त अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी के पद पर नियुक्त करती है और एतद्वारा यह निर्देश देती है कि उपर्युक्त अधिकारी उक्त सारणी के कालम (2) में विनिर्दिष्ट सरकारी भवनों की श्रेणियों के संबंध में उपर्युक्त अधिनियम के अंतर्गत सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग करते हुए दिए गए कार्यों का निर्वहन करेगा:-

सारणी

नाम तथा रैंक	सरकारी भवनों की श्रेणियाँ
श्री बी. एस. शेखावत उप समादेशक	राज्यों और संघ शासित क्षेत्र असम, मेघालय, नागालैण्ड,

महानिर्देशालय असम

राइफल्स

शिलांग -793011

मणिपुर, सिक्किम, अरुणाचल प्रदेश, मिजोरम, नई दिल्ली तथा त्रिपुरा व असम राइफल्स के नियंत्रणाधिन सभी सरकारी भवन

[सं. ए—अधिकारी/सेक्सन/23/2010/768]
वी.एस.यादव, कर्नल (महानिर्देशालय असम राइफल्स)

MINISTRY OF HOME AFFAIRS

New Delhi, the 15th September, 2010

S.O. 2478.—In exercise of powers conferred by Section 3 of the Public premises (Eviction of Unauthorized occupation) act 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in the column 1 of the table below, being Gazette Officer of Government of India, to be Estate Officer for the purpose of the said Act and hereby directs that the said officer shall exercise the powers conferred and perform the duties imposed on Estate Officers under the said Act in respect of the categories of public premises specified in Column (2) of the said table:-

TABLE

Name and Rank	Categories of the Public Premises
Shri B. S. Shekhawat Deputy Commandant Directorate General Assam Rifles Shillong -793001	All public premises held on charge of Assam Rifles in the states and the Union Territories of Assam, Meghalaya, Nagaland, Manipur, Arunachal Pradesh, Mizoram, New Delhi and Tripura.

[No. A/OFFRS. Sec./23/2010/768]

V. S. YADAV, Colonel (Directorate General Assam Rifles)

कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 12 अगस्त, 2010

का.आ. 2479.—दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत शक्तियों का प्रयोग करते हुए, केन्द्र सरकार श्री तरुण शर्मा को दिल्ली उच्च न्यायालय में मामला आर.सी. । (एस) /90-एसआईयू. II. /सीबीआई-एस आई सी ।/ नई दिल्ली (श्री सज्जन कुमार और अन्य के विरुद्ध मामला) और इसके साथ जुड़े हुए तथा इसके आनुषांगिक किसी अन्य मामले में अपील करने के लिए विशेष लोक अभियोजक के रूप में अधिवक्ता नियुक्त करती है।

[सं. 225/11/2007-एवीडी-II]

मुकेश चतुर्वेदी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 12th August, 2010

S.O. 2479.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Tarun Sharma, Advocate as Special Public Prosecutor for conducting the appeal in case RC.1 (S) /90-SIU.II/CBI/SIC.I/New Delhi (case against Shri Sajjan Kumar and others) in the high Court of Delhi and any other matter connected therewith and incidental thereto.

[No. 225/11/2007-AVD-II]

MUKESH CHATURVEDI, Under Secy.

नई दिल्ली, 30 सितम्बर, 2010

का.आ. 2480.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की

धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत शक्तियों का प्रयोग करते हुए मिजोरम राज्य सरकार, सतर्कता विभाग, आईजाल की अधिसूचना सं. सी. 31018/1/2010-सतर्कता/भाग दिनांक 8 अप्रैल, 2010 द्वारा प्राप्त सहमति से नबंवर, 2006 से अक्टूबर, 2007 की अवधि के दौरान भारतीय स्टेट बैंक, मिशन वेंग शाखा, आईजाल में रु. 2,10,11,163 की धोखाधड़ी के संबंध में भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) के अंतर्गत धारा 120 बी, 420, 467, 468 तथा 471, के तहत दंडनीय अपराध तथा भ्रष्टाचार निरोधक अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (1) (सी) तथा (डी) के साथ पठित धारा 13 (2) के अंतर्गत अन्वेषण के लिए तथा उसी संव्यवहार के अनुक्रम में किए गए उक्त अपराध से संबंधित अथवा प्रयत्नों, दुष्प्रेरणों और घटयंत्रों अथवा उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण मिजोरम राज्य के संबंध में करती है।

[सं. 228/57/2010-एवीडी-II]

मुकेश चतुर्वेदी, उप सचिव

New Delhi, the 30th September, 2010

S.O. 2480.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Mizoram, Vigilance Department Aizawl, vide Notification No. C.31018/1/2010-VIG/Pt dated 8th April, 2010 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Mizoram, for investigation of offence punishable under sections 120-B, 420, 467, 468, and 471 of the Indian Penal Code 1860 (Act No. 45 of 1860) and section 13 (2) read with sections 13 (1)(c) and (d) of the Prevention of Corruption Act, 1988 (Act No. 49 of 1988) relating to the alleged fraud involving Rs.2,10,11,163 in the State Bank of India, Mission Veng Branch, Aizawl during the period of November, 2006 to October, 2007 and attempts, abetments and conspiracies in relation to or in connection with the above mentioned offences and any other offence/offences committed in course of the same transaction or arising out of the same facts.

[No. 228/57/2010-AVD-II]

MUKESH CHATURVEDI, Dy. Secy.

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 28 सितम्बर, 2010

का.आ. 2481.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग तथा 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35

की उप-धारा (1) के खंड (iii) के प्रयोजनार्थ कर निर्धारण वर्ष 2010-2011 के आगे से संगठन जैवियर सेंटर ऑफ हिस्टोरिकल रिसर्च, गोवा को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगे “अन्य संस्था” की श्रेणी में अनुमोदित किया गया है, अर्थात्:—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग सामाजिक विज्ञान में अनुसंधान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से सामाजिक विज्ञान या सांख्यिकीय अनुसंधान करेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही-खाता रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभासित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;
- (iv) अनुमोदित संगठन सामाजिक विज्ञान में अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :—

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित सामाजिक विज्ञान में अनुसंधान अथवा सांख्यिकीय अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5डे के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खंड (iii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 74/2010/फा. सं. 203/6/2010-आ.क.नि.-II]

अजय गोयल, निदेशक (आ.क.नि.-II)

MINISTRY OF FINANCE

(Department of Revenue)

(Central Board of Direct Taxes)

New Delhi, the 28th September, 2010

S.O. 2481.—It is hereby notified for general information that the organization Xavier Centre of Historical Research, Goa has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5E of the Income-tax Rules, 1962 (said Rules) from Assessment year 2010-2011 onwards in the category of 'other institution' partly engaged in research activities subject to the following conditions, namely:—

- (i) The sums paid to the approved organization shall be utilized for research in social sciences;
- (ii) The approved organization shall carry out research in social science or statistical research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for research in social sciences and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:—

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of donations received and sums applied for research in social sciences or statistical research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or

(e) ceases to conform to and comply with the provisions of clause (iii) of sub-section (1) of Section 35 of the said Act, read with rules 5C and 5E of the said Rules.

[Notification No. 74/2010/F. No. 203/6/2010/ITA-II]

AJAY GOYAL, Director (ITA-II)

आदेश

नई दिल्ली, 30 सितम्बर, 2010

स्वाम्य

का.आ 2482.—भारतीय स्वाम्य अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 3.35 लाख रुपये (मात्र तीन लाख पैंतीस हजार रुपये) के शुल्क को माफ करती है जिसके साथ बाटर एंड सैनिटेशन पूल्ड फंड तमिलनाडु द्वारा समग्र मूल्य के 6.70 करोड़ रुपये (मात्र छ: करोड़ सत्तर लाख रुपये) के प्रामिसरी नोटों के स्वरूप के 7.25 प्रतिशत बाटर एंड सैनिटेशन पूल्ड फंड बंधपत्र के रूप में चार्जित बंधपत्र जारी किए गए थे, जो उक्त अधिनियम के तहत अन्यथा प्रभार्य हैं।

[सं. 01/2010-स्वाम्य/फा. सं. 33013/2/2010-एस ओ (एस टी)]

विजय कुमार, अवार सचिव

ORDER

New Delhi, the 30th September, 2010

STAMPS

S.O. 2482.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty of Rs. 3.35 lakh (Rs. Three Lakh Thirty Five thousand only) with which the bonds described as 7.25% Water and Sanitation Pooled Fund Bonds in the nature of promissory notes aggregating to Rs. 6.70 crore (Rs. Six Crore Seven Lakh only) issued by Water and Sanitation Pooled Fund, Tamil Nadu, are otherwise chargeable under the said Act.

[No. 01/2010-STAMPS/F. No. 33013/2/2010-SO (ST)]
VIJAY KUMAR, Under Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 5 अक्टूबर, 2010

का.आ. 2483.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एम. रामप्रसाद, महाप्रबन्धक, भारतीय साधारण बीमा निगम को बिना आवास और कार सुविधा के 2.50 लाख रुपए प्रतिमाह के वेतन पर, पद का कार्यभार ग्रहण करने की तिथि से पांच वर्षों की अवधि के लिए अथवा उनके 62 वर्ष की आयु प्राप्त करने तक अथवा अगले आदेशों तक, जो भी पहले हो, बीमा विनियामक और विकास प्राधिकरण

(आईआरडीए) के पूर्णकालिक सदस्य (गैर-जीवन) के रूप में नियुक्त करती है।

[फा. सं. आर-16011/01/2010-बीमा-1]

ललित कुमार, निदेशक (बीमा)

(Department of Financial Services)

New Delhi, the 5th October, 2010

S.O. 2483.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government, hereby appoints Shri M. Ramprasad, General Manager, General Insurance Corporation of India as Whole-time Member (Non-life) in the pay of Rs. 2.50 lakh per month, without facility of house and car, in the Insurance Regulatory and Development Authority (IRDA) for five years w.e.f. from the date of assumption of charge of the post or till he attains the age of 62 years, whichever is earlier.

[F. No. R- 16011/01/2010-Ins. 1]

LALIT KUMAR, Director (Insurance)

कार्यालय मुख्य आयकर आयुक्त

जयपुर, 30 सितम्बर, 2010

सं. 14/2010-11

का.आ. 2484.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2009-2010 एवं आगे के लिए कथित धारा के उद्देश्य से “दी पैलेस स्कूल एज्जूकेशनल सोसायटी, जयपुर” को स्वीकृति देते हैं बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खण्ड (23 सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक:मुआआ/अआआ/(मु)जय/10(23सी)(vi)/10-11/2286]
मुकेश भान्ती, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF
INCOME-TAX

Jaipur, the 30th September, 2010

No. 14/2010-11

S.O. 2484.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves “The Palace School Educational Society, Jaipur” for the purpose of said Section for the A. Y. 2009-2010 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23 C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No.CCIT/JPR/Addl.CIT(Hqrs.)/10(23C)(vi)/2010-11/2286]

MUKESH BHANTI, Chief Commissioner of Income-tax

जयपुर, 30 सितम्बर, 2010

सं. 15/2010-11

का.आ 2485.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2009-2010 एवं आगे के लिए कथित धारा के उद्देश्य से “सरोकार संस्थान, जयपुर” को स्वीकृति देते हैं बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक:मुआआ/अआआ/(मु)/जय/10(23सी)(vi)/10-11/2284]

मुकेश भान्ती, मुख्य आयकर आयुक्त

Jaipur, the 30th September, 2010

No.15/2010-11

S.O. 2485.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves “Sarokar Sansthan, Jaipur” for the purpose of said Section for the A. Y. 2009-2010 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23 C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl.CIT(Hqrs.)/10(23C)(vi)/2010-11/2284]

MUKESH BHANTI, Chief Commissioner of Income-tax

जयपुर, 30 सितम्बर, 2010

सं. 16/2010-11

का.आ. 2486.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2009-2010 एवं आगे के लिए कथित धारा के उद्देश्य से “राजधानी एजूकेशनल वैलफेर सोसायटी, जयपुर” को स्वीकृति देते हैं बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा

10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक:मुआआ/अआआ/(मु)/जय/10(23सी)(vi)/10-11/2285]

मुकेश भान्ती, मुख्य आयकर आयुक्त

Jaipur, the 30th September, 2010

No.16/2010-11

S.O. 2486.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves “Rajdhani Educational Welfare Society, Jaipur” for the purpose of said Section for the A. Y. 2009-2010 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23 C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No.CCIT/JPR/Addl.CIT(Hqrs.)/10(23C)(vi)/2010-11/2285]

MUKESH BHANTI, Chief Commissioner of Income-tax

विदेश मंत्रालय

(सीपीवी प्रभाग)

नई दिल्ली, 23 सितम्बर, 2010

का.आ. 2487.—राजनयिक और कॉसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में, केंद्र सरकार एतद्वारा श्रीमती सरला शर्मा, सहायक को 23-9-2010 से भारत के राजदूतावास, बेहरीन में सहायक कॉसलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी-4330/1/2006]

आर. के. पेरिन्डिया, अवर सचिव (कॉसलर)

MINISTRY OF EXTERNAL AFFAIRS

(C. P. V. Division)

New Delhi, the 23rd September, 2010

S.O. 2487.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Smt. Sarla Sharma, Assistant in the Embassy of India, Bahrain to perform their duties of Assistant Consular Officer with effect from 23rd September, 2010.

[No. T-4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

संचार और सूचना प्रौद्योगिकी मंत्रालय

(सूचना प्रौद्योगिकी विभाग)

नई दिल्ली, 24 सितम्बर, 2010

का.आ. 2488.—केन्द्र सरकार एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, सूचना प्रौद्योगिकी विभाग के प्रशासनिक नियंत्रण के अंतर्गत आने वाली सॉफ्टवेयर टेक्नोलॉजी पार्क्स और इंडिया नामक स्वायत्त संस्था के प्लाट नं. आईटी-1, आईटी पार्क, एमआईटीसी, अम्बड़, नासिक स्थित उप-केन्द्र जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. 7(2)/2005-हि.अ.]

चन्दन कुमार चट्टर्जी, संयुक्त निदेशक

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Information Technology)

New Delhi, the 24th September, 2010

S.O. 2488.—In pursuance of Sub-Rule 10 (4) of the Official Language (use for Official Purpose of the Union) Rules 1976, the Central Government hereby notifies the Sub-centre of Software Technology Parks of India, an autonomous society under the administrative control of the Department of Information Technology, located at Plot No. IT-1, IT Park MIDC, Ambad Nasik, more than 80% staff whereof have acquired the working Knowledge of Hindi:

[No. 7(2)/2005-H.S.]

C.K. CHATTERJEE, Jt. Director

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 27 सितम्बर, 2010

का.आ. 2489.—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 12 को उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय चिकित्सा परिषद् से परामर्श करके, संबंध विश्वविद्यालयों के नाम में परिवर्तन के कारण उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, नामतः—

उक्त अनुसूची में, शीर्षक “नेपाल” के अंतर्गत, “बी.पी. कोइराला स्वास्थ्य विज्ञान संस्थान, धरन, नेपाल” के सामने विषयों के “शीर्षक” [इसके आगे स्तम्भ (2) के रूप में संदर्भित], “डिप्लोमा, में उल्लिखित योग्यताओं का स्वरूप [इसके आगे स्तम्भ (3) के रूप में संदर्भित] और ‘संक्षेपण’ [इसके आगे स्तम्भ (4) के रूप में संदर्भित] के अन्तर्गत, अंतिम प्रविष्टि के बाद निम्नलिखित को रखा जाएगा, अर्थात्—

2	3	4
एम.डी. (एनस्थीसियोलोजी)	डॉक्टर इन मेडिसिन (एनस्थीसि- योलोजी)	बी.पी. के. आई.एच.एस., धरन, नेपाल (बी.पी. कोइराला स्वास्थ्य विज्ञान संस्थान, धरन, नेपाल में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में बी.पी. कोइराला स्वास्थ्य विज्ञान संस्थान, धरन, नेपाल (मानद विश्वविद्यालय) द्वारा वर्ष 2002 में या इसके पश्चात् प्रदान की गई चिकित्सा अहंता मान्यताप्राप्त मानी जाएगी ।

[सं.वी.11015/1/2010-एमई पी-1]

ध्रुव चक्रवर्ती, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health & Family Welfare)

New Delhi, the 27th September, 2010

S.O. 2489.—In exercise of the powers conferred by sub-section (2) of the Section 12 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the Second Schedule to the said Act, namely :—

In the said Schedule under the heading “Nepal” - against “B.P. Koirala Institute of Health Sciences, Dharan, Nepal” under the headings ‘Title’ [hereinafter referred to as column (2)], ‘Nature of qualifications as stated in diploma’ [hereinafter referred to as column (3)] and “Abbreviation” [hereinafter referred to as column (4)], after the last entry and entry relating thereto the following shall be inserted, namely:—

2	3	4
“MD (Anaesthesia- surgery)	“Doctor in Medicine Anaesthesia- surgery)”	B.P.K.I.H.S., Dharan Nepal [This shall be a recog- nized qualification when granted by B. P. Koirala Institute of Health Sciences, Dharan, Nepal (Deemed University) in respect of students being trained at B.P. Koirala Institute of Health Sciences, Dharan, Nepal on or after 2002]

[No. V.11015/1/2010-ME-P-1]

DHRUV CHAKRAVARTY, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

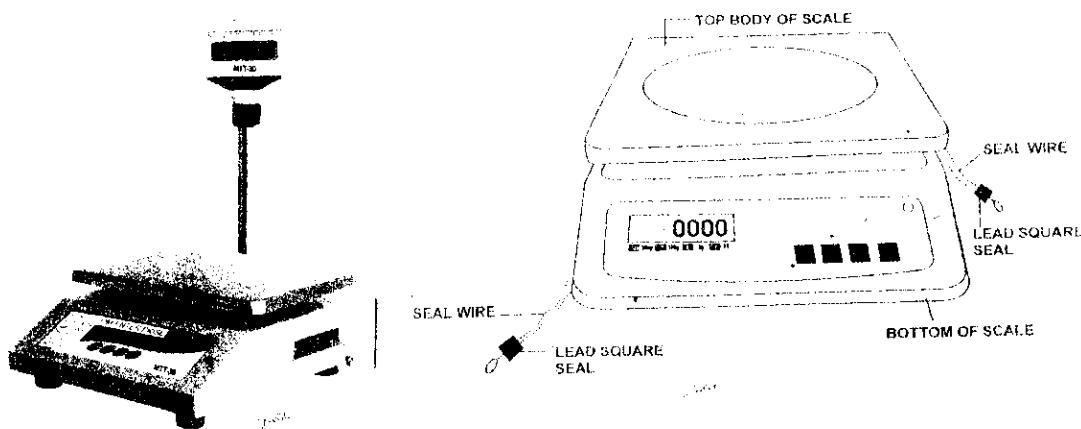
(उपभोक्ता मामले विभाग)

नई दिल्ली, 15 जुलाई, 2010

का.आ. 2490.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योग के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ऑम इंटरप्राइज, 42, श्री नाथजी इंडस्ट्रियल इस्टेट, जी आई डी सी-फेज । वटवा अहमदाबाद-382445 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एमटीटी-30" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टाईप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एमटीटीजी" है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/491 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है ;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप टाईप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्केल के फ्रंट, दायीं और बायीं ओर छेद बनाकर और स्केल की बाट्म और टाप बाड़ी में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मशीन को कपटपूर्ण व्यवहार के लिए खोले जाने से राकर्ने के लिए भी सीलिंग की जाती है। मॉडल के सीलिंग प्रावधान का स्कीमवार डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

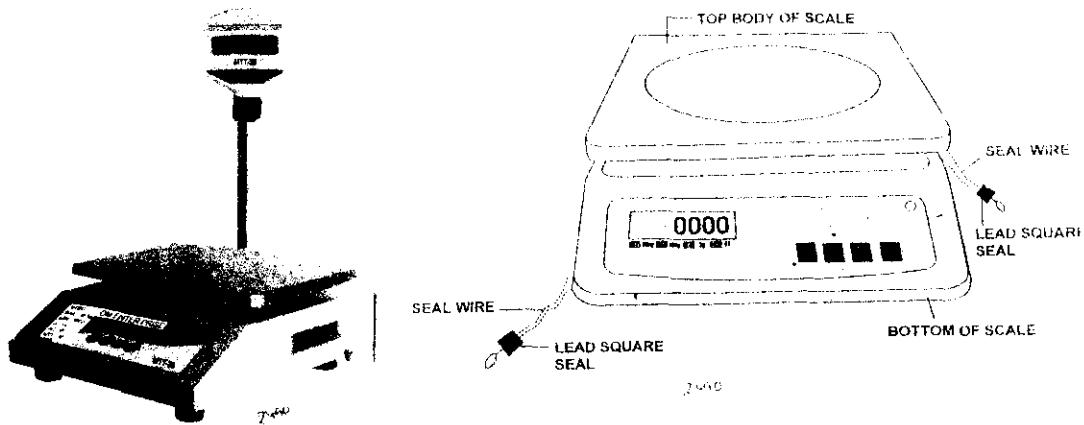
(Department of Consumer Affairs)

New Delhi, the 15th July, 2010

S.O. 2490.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of Medium Accuracy (Accuracy class-III) of series "MTT-30" and with brand name "MTDG" (hereinafter referred to as the said model), manufactured by M/s. OM Enterprises, 42, Shree Nathji Industrial Estate, GIDC, -Ph I Vatva Ahmedabad-382445 which is assigned the approval mark IND/09/09/491.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30 Kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



The sealing is done through the holes made in front, right and left side of the scale, than sealing wire is passed through bottom and top body of scales. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity up to 50kg. and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with number of verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(280)/2009]

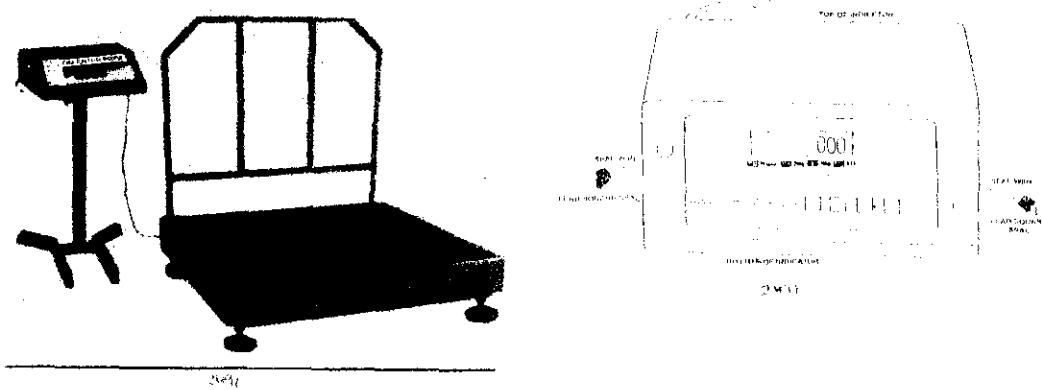
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 जुलाई, 2010

का.आ. 2491.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ओम इंटरप्राइज, 42, श्री नाथजी इंडस्ट्रियल इस्टेट, जी आई डी सी-फेज 1 बटवा अहमदाबाद-382445 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एमटीटी-150” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म टाईप) के मॉडल का, जिसके ब्रांड का नाम “एमटीटीजी” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/492 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है ;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाईप) है। इसकी अधिकतम क्षमता 150 कि.ग्रा. और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अंतराल (ई) 20 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्केल के फ्रंट, दायीं और बायीं ओर छेद बनाकर और स्केल की बाटम और टाप बाड़ी में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मशीन को कपटपूर्ण व्यवहार के लिए खोले जाने से रोकने के लिए भी सीलिंग की जाती है। मॉडल के सीलिंग प्रावधान का स्कीमवार डॉयग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 , 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(280)/2009]

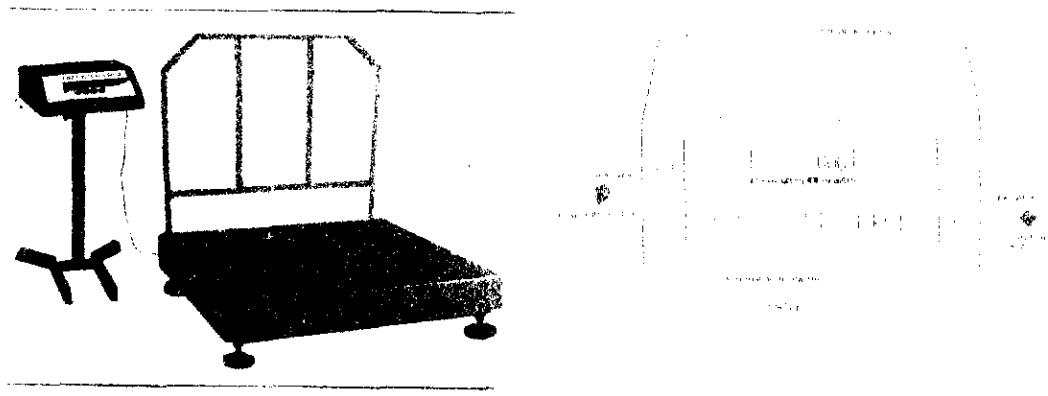
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th July, 2010

S.O. 2491.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class-III) of series "MTP-150" and with brand name "MTDG" (hereinafter referred to as the said model), manufactured by M/s. OM Enterprises, 42, Shree Nathji Industrial Estate, GIDC,-Ph I Vatva Ahmedabad-382445 which is assigned the approval mark IND/09/09/492.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 150 kg. and minimum capacity of 400g. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



The sealing is done through the holes made in front, right and left side of the scale, than sealing wire is passed through bottom and top body of indicator. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

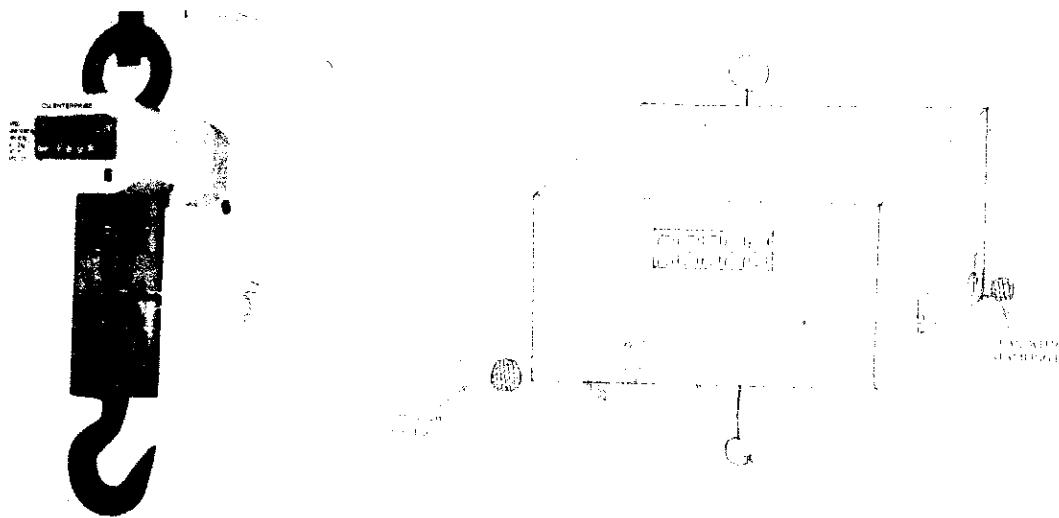
Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make accuracy and performance of same series with maximum capacity above 50kg. up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

नई दिल्ली, 15 जुलाई, 2010

का.आ. 2492.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए, मैसर्स ओम इंटरप्राइज, 42, श्री नाथजी इंडस्ट्रियल इस्टेट, जी आई डी सी-फेज 1 वटवा अहमदाबाद-382445 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एमटीसी-10टी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (क्रेन टाइप) के मॉडल का, जिसके ब्रांड का नाम “एमटीडीजी” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/493 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है ;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (क्रेन टाइप) है। इसकी अधिकतम क्षमता 10 टन और न्यूनतम क्षमता 40 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 2 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्केल के बाटम और टॉप प्लेट में छेद करके, इन छेदों में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मशीन को कपटपूर्ण व्यवहार के लिए खोले जाने से रोकने के लिए भी सीलिंग की जाती है। मॉडल के सीलिंग प्रावधान का स्कीमवार डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/पदर बोर्ड में डिप स्विच भी दिया गया है।

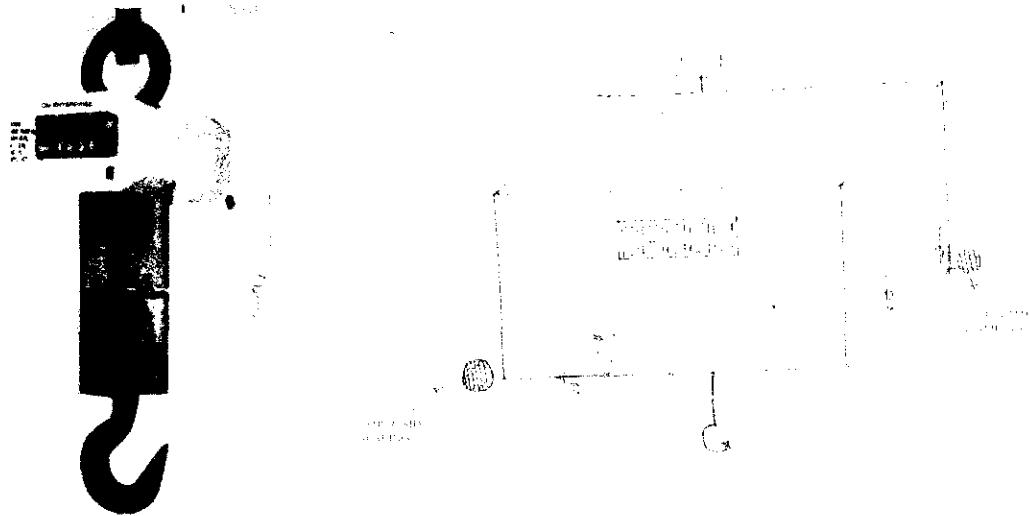
और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अन्तराल (एन) सहित 50 कि.ग्रा. से अधिक और 30 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

New Delhi, the 15th July, 2010

S.O. 2492.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Crane type) with digital indication of Medium Accuracy (Accuracy class-III) of series "MTC-10T" and with brand name "MTDG" (hereinafter referred to as the said model), manufactured by M/s. OM Enterprises, 42, Shree Nathji Industrial Estate, GIDC,-Ph I Vatva Ahmedabad-382445 and which is assigned the approval mark IND/09/09/493.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Crane type) with a maximum capacity of 10 tonne and minimum capacity of 40kg. The verification scale interval (e) is 2kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



The sealing is done through the holes made in bottom and top plate of the scale, than sealing wire is passed through these holes. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity range from 50kg. and up to 30tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(280)/2009]

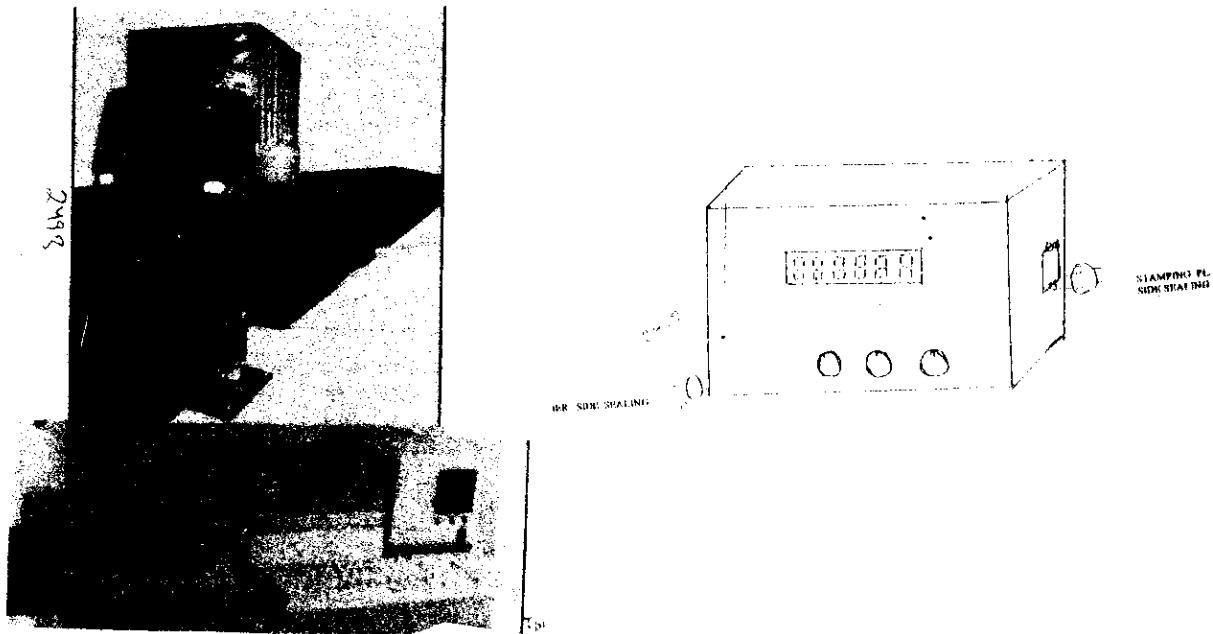
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 15 जुलाई, 2010

का.आ. 2493.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों को प्रयोग करते हुए, मैसर्स ओम इंटरप्राइज, 42, श्री नाथजी इंडस्ट्रियल इस्टेट, जी आई डी सी-फेज । वटवा अहमदाबाद-382445 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एमटीडब्ल्यूबी-30टी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (इलेक्ट्रोनिक वेब्रिज) के मॉडल का, जिसके ब्रांड का नाम “एमटीडीजी” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/494 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है ;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रोनिक वेब्रिज) है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्केल के बाटम और टॉप प्लेट में छेद करके, इन छेदों में से सीलिंग वायर निकाल कर सीलिंग की जाती है। मशीन को कपटपूर्ण व्यवहार के लिए खोले जाने से रोकने के लिए भी सीलिंग की जाती है। मॉडल के सीलिंग प्रावधान का स्कॉमवार डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

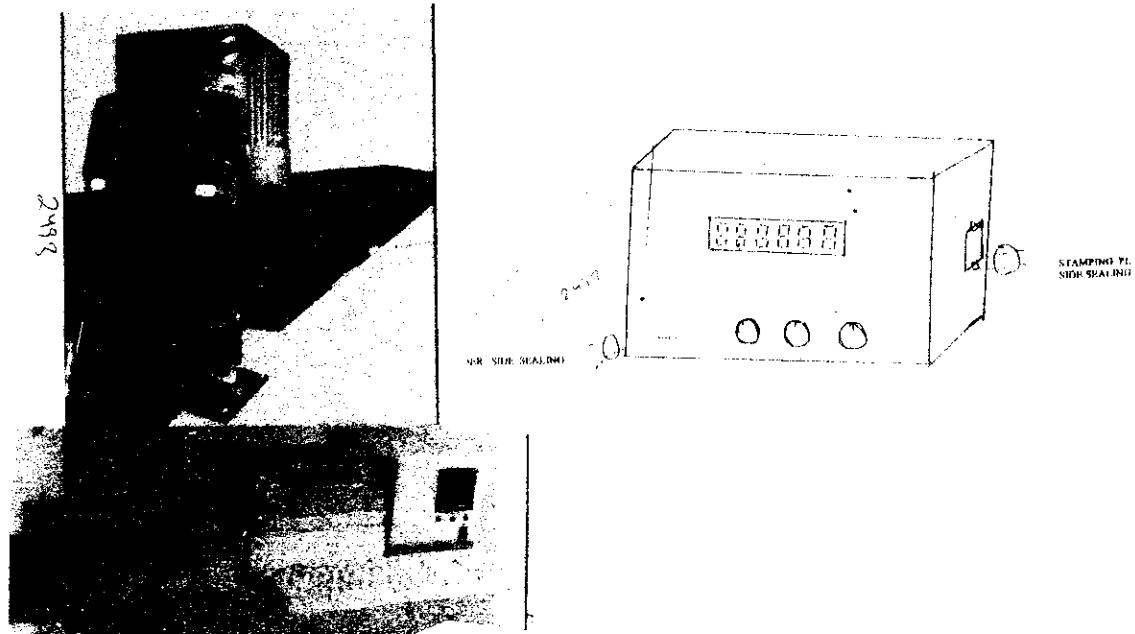
और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अन्तराल (एन) सहित 5 टन से अधिक और 200 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

New Delhi, the 15th July, 2010

S.O. 2493.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of Medium Accuracy (Accuracy class-III) of series "MTWB-30T" and with brand name "MTDG" (hereinafter referred to as the said model), manufactured by M/s. OM Enterprises, 42, Shree Nathji Industrial Estate, GIDC, -Ph I Vatva Ahmedabad-382445 and which is assigned the approval mark IND/09/09/494.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 30 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



The sealing is done through the holes made in bottom and top plate of the scale, than sealing wire is passed through these holes. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

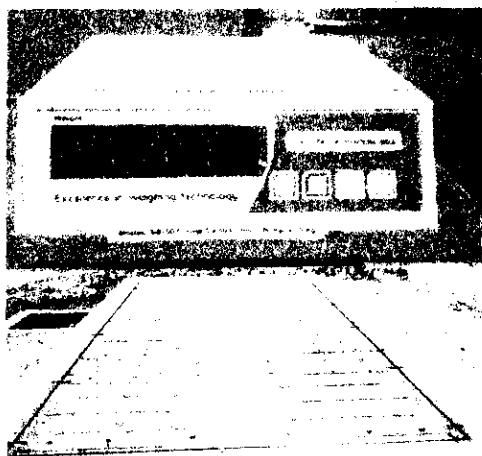
Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity above 5tonne and up to 200tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

नई दिल्ली, 15 जुलाई, 2010

का.आ. 2494.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एस बी फ्रंटलाइन वेइंग इंडिया, 10, सोनपुरम, नियर कनक सिटी, आलम नगर, लखनऊ, उत्तर प्रदेश द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “एसबीएफएलडब्ल्यूआई” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्रांड का नाम “एसबी” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/475 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 50 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



इंडीकेटर के हैड होल स्क्रूज में से स्पेशल क्वालिटी के सीलिंग वायर निकाल कर सीलिंग की जाती है। कपटपूर्ण व्यवहारों से वेइंग मशीन को खोले जाने से रोकने के लिए सीलिंग की जाती है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम ऊपर दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

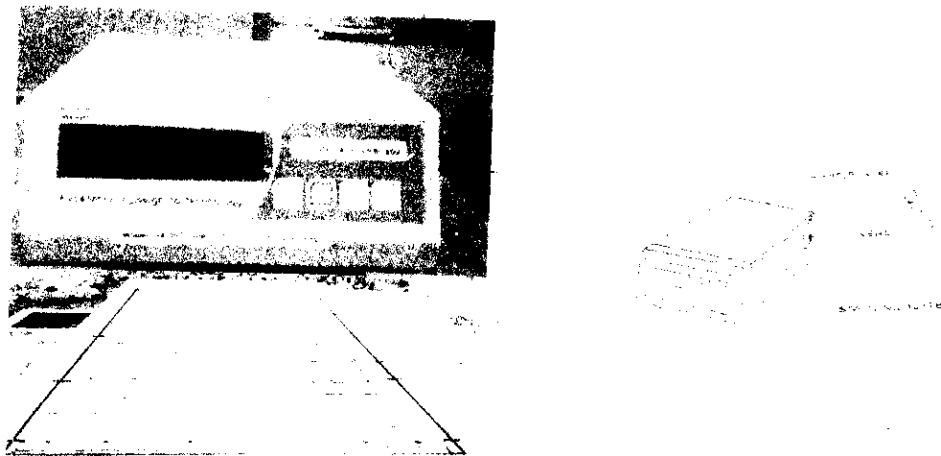
और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनियोग किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या क्रणात्मक पूर्णांक या शून्य के समतुल्य हैं।

New Delhi, the 15th July, 2010

S.O. 2494.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of Medium Accuracy (Accuracy class-III) of series "SBFLWI" and with brand name "SB" (hereinafter referred to as the said model), manufactured by M/s. SB Frontline Weighing India, 10, Sonapuram, Near Kanak City, Alampur, Lucknow UP and which is assigned the approval mark IND/09/09/475.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 50 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



The sealing is done through the head holes screws made provided for special quality of sealing wire and it is passed through these hole of screw. Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity above 5tonne and up to 200tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or above and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(247)/2009]

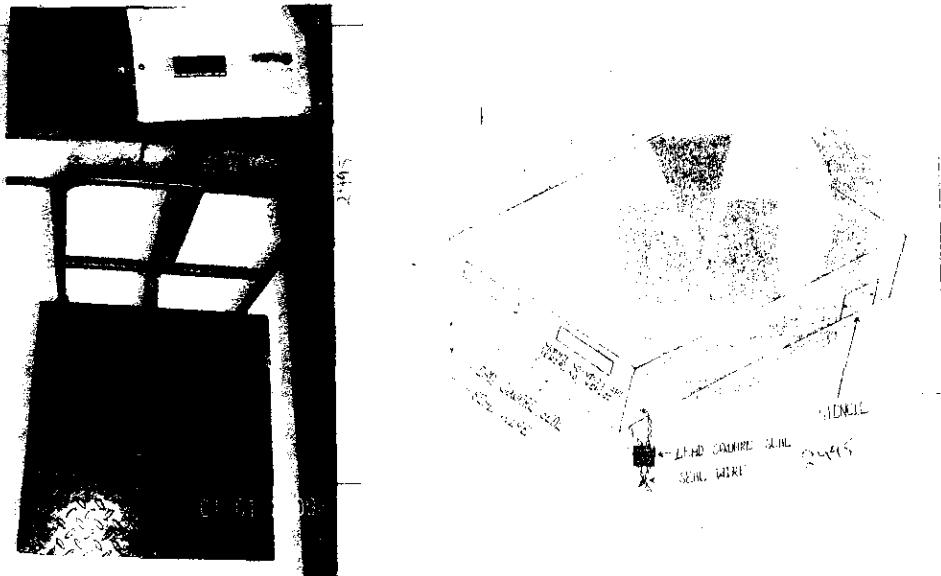
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 16 सितम्बर, 2010

का.आ. 2495.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप-मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स विप्रो वेइंग, प्लाट नं. 15 सी, इंडस्ट्रियल एरिया नं. 1, ए बी रोड, देवास, 455001 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “वीपी60-डीपी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “विप्रो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/357 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 1 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शात प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



वेइंग इंडिकेटर की रियर प्लेट के बायाँ तरफ छेद में से सीलिंग बायर निकाल कर सील डाट लगाकर एवं स्टाम्प करके सीलिंग की जाती है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 , 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(206)/2009]

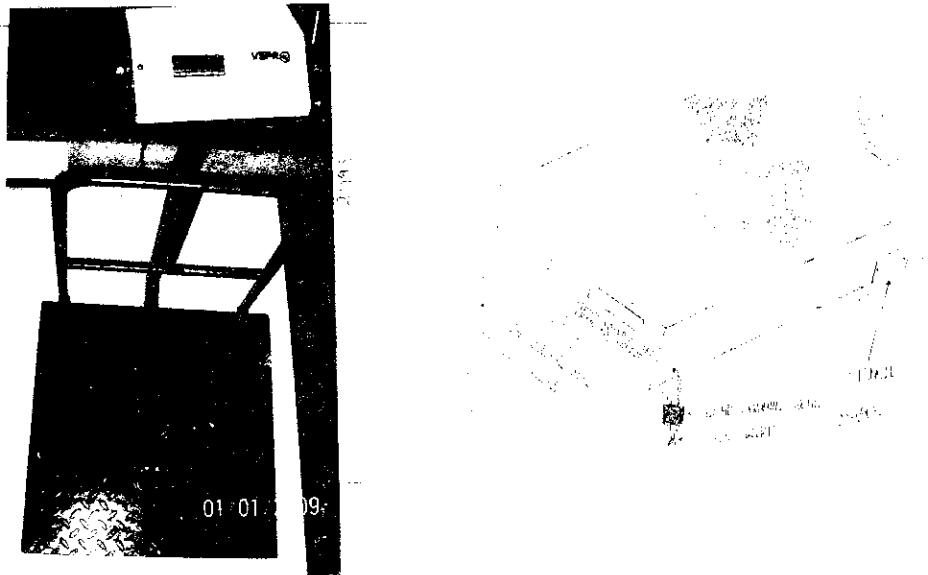
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th September, 2010

S.O. 2495.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Platform type) with digital indication of "VP60-DP" series of Medium accuracy (accuracy class-III) and with brand name "VEPRO" (hereinafter referred to as the said model), manufactured by M/s. Vepro Weighing, Plot No. 15C, Industrial Area No. 1, A.B. Road, Dewas, 455001 and which is assigned the approval mark IND/09/09/357.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300 kg. and minimum capacity of 1 kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



Sealing wire is passed through hole in the rear plate of weighing indicator on the left side and seal can be plugged and stamped.

The instrument has external control to calibration. A dip switch has also been provided in A/D card mother board to disable access to external calibration.

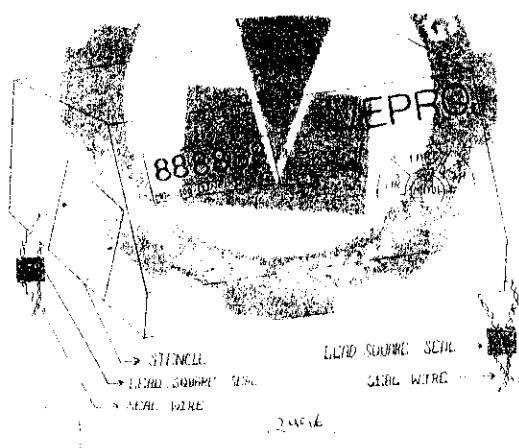
Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50kg. and up to 5000 kg. and with the number of verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

नई दिल्ली, 16 सितम्बर, 2010

का.आ. 2496.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योगों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए, मैसर्स विप्रो वेइंग, प्लाट नं. 15 सी, इंडस्ट्रियल एरिया नं. 1, ए बी रोड, देवास-455001 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “वीईपी-10-एपीटी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (वेब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम “वेप्रो” है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/358 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (वेब्रिज प्रकार) है। इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्लनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



वेइंग इंडिकेटर की रियर प्लेट के बायाँ तरफ छेद में से सीलिंग वायर निकाल कर सील डाट लगाकर एवं स्टाम्प करके सीलिंग की जाती है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के बैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 100 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 , 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(206)/2009]

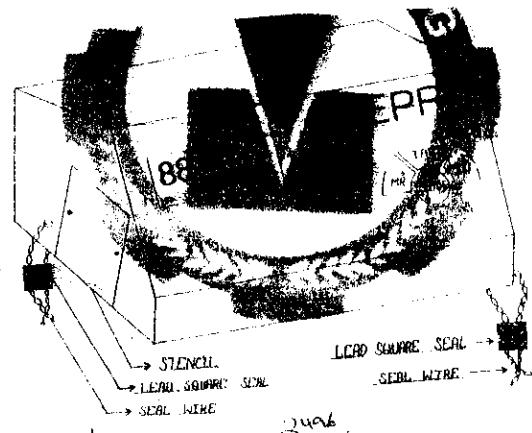
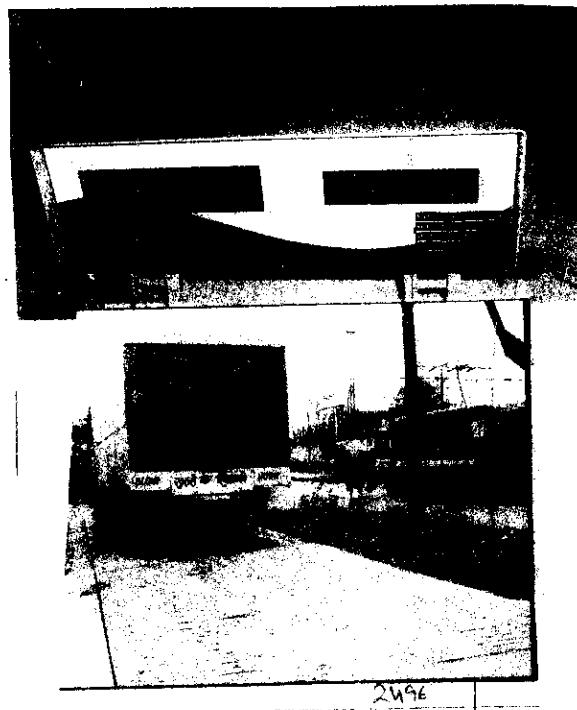
बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th September, 2010

S.O. 2496.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of non-automatic weighing instrument (Weigh Bridge type) with digital indication of "VEP-10 APT" series of medium accuracy (accuracy class-III) and with brand name "VEPRO" (hereinafter referred to as the said model), manufactured by M/s. Vepro Weighing, Plot No. 15C, Industrial Area No. 1, A.B. Road, Dewas-455001 and which is assigned the approval mark IND/09/09/358.

The said model is a strain gauge type load cell based non-automatic weighing instrument (Weigh bridge type) with a maximum capacity of 40 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instruments operates on 230 Volts, 50 Hertz alternative current power supply.



Sealing wire is passed through hole in the rear plate of weighing indicator on the left side and seal can be plugged and stamped.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make accuracy and performance of same series with maximum capacity up to 100 tonne with verification scale interval(n) in the range of 500 to 10,000 for 'e' value of 5kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(206)/2009]

B. N. DIXIT, Director of Legal Metrology

भारतीय मानक व्यूरो

नई दिल्ली, 16 सितम्बर, 2010

का.आ. 2497.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है, वह स्थापित हो गया है :-

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15351: 2008 वस्त्रादि - जल अवरोधक परत चढ़ा उच्च घनत्व पोलीइथाइलीन (एच.डी.पी.ई.) का बुना हुआ कपड़ा (भू-मेम्बरेन) - विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 1, अगस्त 2010	30 सितम्बर, 2010

इस संशोधन की प्रति भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी एक्स डी / जी-25]
पी. भट्टनागर, वैज्ञानिक 'एफ' एवं निदेशक (वस्त्रादि)

BUREAU OF INDIAN STANDARDS

New Delhi, the 16th September, 2010

S.O. 2497.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standard, particulars of which is given in the Schedule hereto annexed has been established on the date indicated against it :

SCHEDULE

Sl.No.	No. and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 15351 : 2008 Textiles - Laminated High Density Polyethylene (HDPE) Woven Fabric (Geo-Membrane) for Water Proof Lining - Specification (First Revision)	Amendment No. 1, August, 2010	30 September, 2010

Copy of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : TXD/G-25]

P. BHATNAGAR, Sc. 'F' & Head (Textiles)

नई दिल्ली, 22 सितम्बर, 2010

का.आ. 2498.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 10258-3: 2010 / आई एस ओ 7886-3: 2005 एक बार प्रयोग में आने वाली जीवाणु रहित हाइपोडरमिक सीरिज भाग 3 नियत डोज द्वारा प्रतिरक्षण की आटो - डीसेबल सीरिज	-	फरवरी, 2010
2	आई एस / आई एस ओ 15223-1: 2007 चिकित्सा उपकरण - चिकित्सा उपकरण लगाने हेतु लेबलों पर प्रयोग किए जाने वाले प्रतीक चिन्ह लेबलिंग एवं आपूर्ति की जाने वाली सूचना भाग 1 सामान्य अपेक्षाएं	-	फरवरी, 2010
3	आई एस / आई एस ओ 7197: 2006 तन्त्रशल्यक्रिया अन्तरोपण - निर्जम, एकल- प्रयोग के लिए हाइड्रोसिफैलस शंट और घटक	आई एस 14219 : 2001	जनवरी, 2010

इम संसोधन की प्रतियां भारतीय मानक व्यूरो, मानक भवन बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोटकता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलूरु, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमएचडी / जी-3:5]

राकेश कुमार, वैज्ञानिक 'एफ' एवं प्रमुख (एमएचडी)

New Delhi, the 22nd September, 2010

S.O. 2498.—In pursuance of clause (b) of sub-rule (1) of Rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards, hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDEULE

Sl.No.	No. and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)

1	IS 10258 (Part 3): 2010 ISO 7886-3: 2005 Sterile Hypodermic syringes for single use Part 3 Auto -Disable syringes for fixed -Dose Immunization	-	February 2009
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(1)	(2)	(3)	(4)
2	IS/ISO 15223-1: 2007 Medical Devices - Symbols to be used with Medical device labels, labelling and information to be supplied Part 1 General requirements		February 2010
3	IS/ISO 7197: 2006 Neurosurgical Implants - Sterile, Single -use Hydrocephalus shunts and components	IS 14219: 2001	January 2010

Copy of these Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MHD /G-3.5]

RAKESH KUMAR, Scientist-'F' & Head (MHD)

नई दिल्ली, 22 सितम्बर, 2010

का.आ. 2499.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक के संशोधन का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	संशोधन का वर्ष भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 3317 : 2004 पुनः उपयोग टाइप की अधोत्तरीय सुझावों - विशिष्ट (दूसरा पुनरीक्षण)	पहला संशोधन वर्ष अप्रैल 2010	अप्रैल 2010

इस संशोधन की प्रतियां भारतीय मानक व्यूरो, मानक भवन 9, बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलुरु, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमएचडी / जी-3.5]
राकेश कुमार, वैज्ञानिक 'एफ' एवं प्रमुख (एमएचडी)

New Delhi, the 22nd September, 2010

S.O. 2499.—In pursuance of clause (b) of sub-rule (1) of Rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards, hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. and Year of the Indian Standards	No. and Year of the amendment	Date from the amendment shall have effect
(1)	(2)	(3)	(4)
1	IS 3317: 2004 Hypodermic needles, Reusable Type -Specification (Second Revision)	Amendment No. 1 April 2010	April 2010

Copy of these amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MHD/G-3.5]

RAKESH KUMAR, Scientist-'F' & Head (MHD)

नई दिल्ली, 23 सितम्बर, 2010

का.आ. 2500.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उप विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द (Cancelled) कर दिया गया है :—

अनुसूची

क्रम संख्या	लाइसेंस नं.	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम से संबंधित भारतीय मानक का शीर्षक व संबंधित भा. मा.	रद्द करने की तिथि
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1 2 3 4 5

मार्च 2010

1.	3006330	मै. श्री वर्धमान पावर ग्रा.लि., जी-849, रोड नं. 14 विश्वकर्मा औद्योगिक क्षेत्र, जयपुर	एल्यूमिनियम कार्डिट्स फॉर ओवरहैंड ड्रांसमिशन परपज 398 (भाग 4) : 1994	26-3-2010
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[सं. सीएमडी/13:13]

सी. के. महेश्वरी, वैज्ञानिक-जी (प्रमाणन)

New Delhi, the 23rd September, 2010

S.O. 2500.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies that the licence (s) particulars of which is/are given below has /have been cancelled with effect from the date indicated :—

SCHEDULE

Sl. No.	Licence No. (CM/L)	Name & Address of the Licensee the licence cancelled	Article/Process with relevant Indian Standards covered by	Date of cancellation
1	2	3	4	5
March 2010				
1	3006330	Shree Vardhman Power Pvt. Ltd. G-849, Road No. 14, Vishwakarma Industrial Area, Jaipur	Aluminium conductors for overhead Transmission purposes: Part 4 aluminium alloy stranded conductors (aluminium magnesium silicon type) 398 (Pt. 4) : 1994	26-3-2010

[No. CMD / 13:13]

C. K. MAHESHWARI, Scientist-G (Certification)

कोयला भंत्रालय

नई दिल्ली, 4 अक्टूबर, 2010

का.आ. 2501.—केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार में कोयला भंत्रालय द्वारा अधिसूचना संख्यांक का.आ. 1998 तारीख 16 जुलाई, 2009 को जारी की गई और जो भारत के राजपत्र के भाग II, खण्ड 3, उप-खण्ड (ii) तारीख 25 जुलाई, 2009 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 20.380 हेक्टर (लगभग) या 50.360 एकड़ (लगभग) है, कोयले का पूर्वक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विहित उक्त भूमि के भाग से कोयला अभिप्राप्त है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे संलग्न अनुसूची में वर्णित 20.380 हेक्टर (लगभग) या 50.360 एकड़ (लगभग) माप की उक्त भूमि में या उस पर के सभी अधिकारों का अर्जन करने की अपने आशय की सूचना देती है।

टिप्पण - 1 : इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक सं. ईसीएल/आरजेएमएल/एमओयूजेडए/एनओटीआई/09/04 तारीख 3 सितम्बर, 2009 का निरीक्षण, उपायुक्त, जिला गोद्डा, झारखण्ड के कार्यालय में या कोयला नियंत्रक 1, काउंसिल हाऊस स्ट्रीट, कोलकाता- 700001 के कार्यालय में या निदेशक तकनीकी (प्रचालन), ईस्टर्न कोलफाल्ड्स लिमिटेड संकटोरिया, डाकघर - दिसेरगढ़, जिला वर्द्दान, पश्चिम बंगाल, पिन कोड - 713333 के कार्यालय में किया जा सकता है।

टिप्पण - 2 : उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है जिसमें निम्नलिखित उपबंध है :-
अर्जन की बाबत आपत्तियाँ :

“8(1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के चारे में आपत्ति कर सकेगा।

स्पष्टीकरण :

1. इस धारा के अर्थात् यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

2. उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम अधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी को या आपत्तिकर्ता को स्वयं सुने जाने विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है, वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न दुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

3. इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जायेगा जो प्रतिकर में हित का दावा करने का है यदि योग्य होता यदि भूमि या ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते।"

टिप्पण 3 : केन्द्रीय सरकार ने, कोयला नियन्त्रक 1, काउंसिल हाऊस स्ट्रीट कोलकाता- 700001 को उक्त अधिनियम की भाग 3 के अधीन अधिसूचना संख्या का.आ. 2520, तारीख 11 जून, 1983 द्वारा समक्ष प्राधिकारी नियुक्त किया है।

अनुसूची

ललमटिया (भाग) कोयला ब्लॉक

जिला-गोड्डा, (झारखण्ड)

रेखांक सं. ईसीएल/आरजेएमएल/एमओयूजेडए/एनओटीआई/09/04 तारीख 3 सितम्बर, 2009

क्रम सं.	मौजा/गांव का नाम*	गांव संख्या	पटवारी हल्का/जे.एल	तहसील/थाना संख्या*	जिला	क्षेत्र हेक्टर में (लगभग)	टिप्पण
1.	छोटा भोड़ाय	17	17	ललमटिया	गोड्डा	20.380	भाग

कुल क्षेत्र 20.380

* राजस्व अभिलेखों के अनुसार

कुल 20.380 हेक्टेयर (लगभग) या 50.360 एकड़ (लगभग)

छोटा भोड़ाय गांव में अर्जित किए जाने वाले प्लाटों की संख्या :-

13, 14, 15, 16, 20, 22, 23, 24, 33, 35, 37, 38, 39, 40, 40/183, 41, 42, 44, 45, 46, 47, 48, 49, 50, 50/184, 51, 52, 53, 54, 55, 56, 57, 57/180, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 72/185, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 102/178, 103, 103/177, 104, 105, 106, 107, 108, 109, 155, 156, 157, 158, 159, 160, 161 भाग, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 172/186, 173, 174, और 175.

कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 की धारा 7(1)के अधीन अधिसूचित किए जाने वाले ललमटिया कोयला ब्लॉक (भाग) के अंतर्गत आने वाले क्षेत्र का सीमा विवरण।

सीमा विवरण (ए1 से ए6)

ए।-ए.2 यह रेखा ललमटिया थाना, जिला - गोड्डा (झारखण्ड) के छोटा भोड़ाय सं. 17, बड़ा भोड़ाय सं. 18 और पहाड़पुर सं. 32 मौजा के त्रि-संधि स्तंभ पर स्थित बिन्दु ए। से शुरू होकर छोटा भोड़ाय सं. 17 और बड़ा भोड़ाय सं. 18 की सांझा सीमा से गुजरने हैं। मौजा छोटा भोड़ाय सं. 17 और बड़ा भोड़ाय सं. 18 की सांझा सीमा पर स्थित बिन्दु ए.2 पर मिलती है।

ए २-ए३ यह रेखा मौजा - छोटा भोड़ाय सं. 17 की साझा सीमा पर स्थित बिन्दु ए -2 से शुरू होकर और प्लाट सं. 14 की पश्चिमी सीमा से गुजरते हुए छोटा भोड़ाय सं. 17 के प्लाट सं. 14 की उत्तरी सीमा पर स्थित बिन्दु ए -3 पर मिलती है ।

ए३ -ए४ यह रेखा छोटा भोड़ाय सं. 17 के प्लॉट सं. 14 की उत्तरी सीमा पर स्थित बिन्दु ए -3 से शुरू होकर प्लॉट सं. 16, 15, 20, 24, 44, 42, 41, 183, 79, की उत्तरी सीमा प्लॉट सं. 33 की पश्चिमी, उत्तरी एवं पूर्वी सीमा, प्लाट सं. 35 की उत्तरी सीमा से गुजरते हुए प्लाट सं. 161 को पार करती है पुनः प्लॉट सं. 107, 108 की पश्चिमी सीमा ; प्लॉट सं. 108 की उत्तरी सीमा, प्लॉट सं. 109 की पश्चिमी सीमा प्लॉट सं. 109, 178, 102, 155, 156, 160, की उत्तरी सीमा से गुजरते हुए और छोटा भोड़ाय सं. 17 और बड़ा भोड़ाय सं. 18 की साझा सीमा पर स्थित बिन्दु ए -4 पर मिलती है ।

ए४ - ए५ यह रेखा छोटा भोड़ाय सं. 17 और बड़ा भोड़ाय सं. 18 की साझा सीमा पर स्थित बिन्दु ए 4 से शुरू होकर, छोटा भोड़ाय सं. 18 और बड़ा भोड़ाय सं. 17 के साझा मौजा सीमा से गुजरते हुए छोटा भोड़ाय सं. 17, बड़ा भोड़ाय सं. 18 और केशगड़िया सं. 20 मौजा के त्रि-संधि स्तंभ पर स्थित बिन्दु ए 5 पर मिलती है ।

ए५ -ए६ यह रेखा छोटा भोड़ाय सं. 17, बड़ा भोड़ाय सं. 18 और केशगड़िया सं. 20 मौजा के त्रि-संधि स्तंभ पर स्थित बिन्दु ए 5 से शुरू होकर छोटा भोड़ाय सं. 17 एवं केशगड़िया सं. 20 की साझा मौजा सीमा से गुजरते हुए छोटा भोड़ाय सं. 17, पहाड़पुर सं. 20 केशगड़िया सं. 32 के त्रि-संधि स्तंभ पर स्थित बिन्दु ए 6 पर मिलती है ।

ए६ - ए१ यह रेखा मौजा छोटा भोड़ाय सं. 17, पहाड़पुर सं. 32 और केशगड़िया सं. 20 के त्रि - संधि स्तंभ पर स्थित बिन्दु ए 6 से शुरू होकर छोटा भोड़ाय सं. 17 और पहाड़पुर सं. 32 की साझा मौजा सीमा से गुजरते हुए और मौजा छोटा भोड़ाय सं. 17, बड़ा भोड़ाय सं. 18 और पहाड़पुर सं. 32 के त्रि-संधि स्तंभ पर स्थित बिन्दु ए । पर मिलती है ।

[फा.सं. 43015/2/2009-पी आर आई डब्ल्यू-1]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 4th October, 2010

S.O. 2501.— Whereas , by the notification of the Government of India in the Ministry of Coal number S.O. 1998 dated the 16th July 2009, issued under sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), and published in the Gazette of India, Part-II, Section 3, Sub-Section (ii) dated the 25th July 2009, the Central Government gave notice of its intention to prospect for coal in 20.380 hectares (approximately) or 50.360 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification ;

And whereas, the Central Government is satisfied that Coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification ;

Now, therefore, in exercise of the powers conferred by sub section (1) of Section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 20.380 hectares (approximately) or 50.360 acres (approximately) and all rights in or over the said lands described in the schedule appended hereto.

Note 1 : The Plan bearing number ECL/RJML/MOUZA/NOTI/09/04 dated the 3rd September, 2009 of the area covered by this notification may be inspected at the Office of the Deputy Commissioner, District Godda, Jharkhand, or at the office of the Coal Controller, 1, Council House Street, Kolkata- 700001 or at the Office of the Director Technical (Operation), Eastern Coalfields Limited, Sanctoria, P.O. Dishergarh, District Burdwan, West Bengal, Pin Code - 713 333.

Note 2 : Attention is hereby invited to the provisions of Section 8 of the said Act which provides as follows :-

Objection to acquisition :

“8 (1) Any persons interested in any land in respect of which a notification under Section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

Explanation :—

1. It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

2. Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of Section 7 or of rights in or over such land, or make different reports in respect of different parcels or such lands or of rights in or over such land, to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, the decision of that Government.

3. For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act."

Note 3 :- The Coal Controller, 1, Council House Street, Kolkata 700001 has been appointed by the Central Government as the competent authority under Section 3 of the said Act, vide notification number S.O. 2520, dated the 11th June, 1983.

SCHEDULE

**Lalmatia (Part) Coal Block
District- Godda (Jharkhand)**

(Plan bearing number ECL/RJML/MOUZA/NOTI/09/04 dated the 3rd September, 2009

All Rights :

Sl. No.	Name of Mouza/ Village*	Village number	Patwari Halka/JL Number*	Tahsil/ PS*	District	Area in Hectares approximately	Remarks
1.	Chhota Bhorai	17	17	Lalmatia	Godda	20.380	Part
Total Area						20.380	

* As per revenue records

Total 20.380 hectares (approximately) or 50.360 acres (approximately)

Plot numbers to be acquired in village Chhota Bhorai :-

13, 14, 15, 16, 20, 22, 23, 24, 33, 34, 35, 36, 37, 38, 39, 40, 40/183, 41, 42, 44, 45, 46, 47, 48, 49, 50, 50/184, 51, 52, 53, 54, 55, 56, 57, 57/180, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 72/185, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 102/178, 103, 103/177, 104, 105, 106, 107, 108, 109, 155, 156, 157, 158, 159, 160, 161 Part, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 172/186, 173, 174, and 175.

Boundary Description of the area falling in coal block Lalmatia (Part) notified under Section 7(1) of the CBA (A&D) Act, 1957.**Boundary Description (A1 To A6):**

A1-A2 Line starts from point No. A1 at tri-junction pillar of Chhota Bhorai No.17, Bara Bhorai No.18 and Paharpur No.32 of PS Lalmatia Dist. Godda (Jharkhand) and passes through the common boundary of Chhota Bhorai No.17 and Bara Bhorai No.18 and meets at the Point No.A2 on Common boundary of mouza Chhota Bhorai No.17 and Bara Bhorai No.18.

A2-A3 Line starts from Point No.A2 on the common boundary of Mouza Chhota Bhorai No.17 and passes through the western boundary of Plot No. 14 and meets at Point No.A3 on northern boundary of Plot No.14 of Chhota Bhorai No.17.

A3-A4 Line starts from Point No.A3 on northern boundary of Plot No.14 of Chhota Bhorai No.17 and passes through the northern boundary of Plot No.16, 15, 20, 24, 44, 42, 41, 183, 79; western, northern and eastern

boundary of Plot No. 33, northern boundary of Plot No. 35; crosses the road on Plot No. 161; again passes through western boundary of Plot No. 107, 108; northern boundary of Plot No. 108; western boundary of 109; northern boundary of Plot No. 109, 178, 102, 155, 156, 160 and meets at point No. A-4 on common boundary of Chhota Bhorai No.17 and Bara Bhorai No.18.

A4-A5 Line starts from Point No.A4 on common boundary of Chhota Bhorai No.17 and Bara Bhorai No.18 and passes through the common mouza Boundary of Bara Bhorai No.18 and Chhota Bhorai No.17, meets at Point A5 on tri-junction pillar of Chhota Bhorai No.17, Bara Bhorai No.18 and Keshgaria No.20.

A5-A6 Line starts from Point No.A5 on tri-junction pillar of Chhota Bhorai No. 17, Bara Bhorai No.18 and Keshgaria No.20; passes through the common mouza boundary of Chhota Bhorai No.17 and Keshgaria No.20; and meets at Point A6 on tri-junction pillar of Chhota Bhorai No.17, Paharpur No.32 and Keshgaria No.20.

A6-A1 Line starts from Point No.A6 on the tri-junction pillar of Mouza Chhota Bhorai No. 17, Paharpur No.32 and Keshgaria No. 20; passes through the common Mouza boundary of Chhota Bhorai No.17 and Paharpur No.32; and meets at Point A1 on tri-junction pillar of Mouza Chhota Bhorai No.17, Bara Bhorai No.18 and Paharpur No.32.

[F. No. 43015/2/2009-PRIW-I]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 29 सितम्बर, 2010

का. आ. 2502.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की की अधिसूचना संख्या का.आ.3283 तारीख 23-11-2009 में जो भारत के राजपत्र भाग II, खण्ड 3, उपखण्ड (ii) तारीख 05-12-2009 में पृष्ठ 7752 से 7787 तक प्रकाशित की गई थी, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

पृष्ठ संख्या 7781 से 7787 तक, नोदा, अडसपुर, सलेबेदपुर गांवों के लिए “तहसील - निआली, जिला - कटक, राज्य- उड़ीसा” शीर्षक के स्थान पर - “तहसील - कण्टापडा, जिला - कटक, राज्य- उड़ीसा” शीर्षक रखा जाएगा।

अधिसूचना का शेष अंश अपरिवर्तित रहेगा।

[सं. आर-25011/15/2009-ओ.आर-1]

बी. के. दत्ता, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 29th September, 2010

S.O. 2502.—In exercise of the powers conferred by sub section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3283 dated the 23rd November, 2009, published at pages 7787 to 7822, in Part-II, Section 3, sub section (ii) of the Gazette of India, dated the 5th December, 2009, namely :—

In the Schedule to the said notification , at pages 7816 to 7822, in place of the heading “Tehsil - Niali, District-Cuttack, State-Orissa” for villages of Noda, Araspur, Saleibedpur, the “Tehsil - Kantapada, District -Cuttack, State -Orissa”, shall be substituted.

The other contents of the notification remain unaltered.

[No. R-25011 15 2009-O. R. 1]

B. K. DATTA, Under Secy.

नई दिल्ली, 29 सितम्बर, 2010

का.आ. 2503.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. 3347 तारीख 2 दिसंबर, 2009 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उड़ीसा राज्य की तहसील: भुवनेश्वर, जिला: खोदा की भूमि में, पारादीप-सम्बलपुर-रायपुर-राँची पाइपलाइन परियोजना के कार्यान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा उड़ीसा राज्य में पारादीप से रायपुर (छत्तीसगढ़) एवं राँची (झारखण्ड) तक पेट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाने हेतु उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और, उक्त अधिसूचना की प्रतियाँ जनता को तारीख 13 जनवरी, 2010 को उपलब्ध करा दी गई थी;

और, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विलंगमों से मुक्त हो कर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील- भुवनेश्वर जिला- खोदा राज्य- उड़ीसा

गांव का नाम प्लाट नं. क्षेत्रफल

हेक्टेयर एयर वर्ग
मीटर

1 2 3 4 5

1	2	3	4	5
कल्याणपुरसासन	712	00	00	10
	697	00	01	91
	696	00	02	78
	690	00	02	31
	689	00	02	09
	430	00	03	68
	431	00	04	73
	429	00	06	42
	427	00	02	26
	426	00	04	50
	807	00	00	16
	423	00	01	87
	422	00	06	48
	810	00	00	77
	809	00	00	56
	808	00	00	71
	416	00	05	70
	421	00	01	48
	415	00	00	10
	417	00	03	05
	418	00	06	54
	403	00	15	33
	402	00	02	18
	252	00	00	72
	251	00	07	14
	250	00	02	91
	249	00	05	15
	243	00	04	13
	205	00	00	10
	204	00	16	83
	203	00	06	11
	201	00	00	65
	200	00	00	24
	198	00	00	54
	194	00	02	43
	195	00	00	10
	174	00	02	19

1	2	3	4	5
कल्याणपुरसासन	175	00	08	06
	172	00	20	44
	171	00	00	49
टिकरपडा	81	00	13	44
	80	00	02	38
	17	00	11	93
	14	00	05	50
	16	00	01	02

[सं. आर.-25011/17/2009—ओ आर. 1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 29th September, 2010

S.O. 2503.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3347 dated 02-12-2009 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the land in Tehsil-Bhubaneswar, District- Khurda, in Orissa State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Petroleum products from Paradip (Orissa) to Raipur (Chhattisgarh) and Ranchi (Jharkhand) by Indian Oil Corporation Limited;

And whereas, copies of the said notification were made available to the public on 13th January, 2010;

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted his report to the Central Government;

And whereas, the Central Government has after considering the said report, decided to acquire the right of user in the land specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Central Government hereby directs the right of user in the said land shall instead of vesting in the Central Government, vest on date of publication of this declaration, in Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE				
Tehsil : Bhubaneswar District: KHURDA State: Orissa				
Name of the Village	Plot No.	Area		
		Hectare	Are	Sq. mtr.
		1	2	3
Kalyanpursasan	716	00	05	24
	709	00	02	49
	710	00	07	69
	713	00	00	89
	706	00	00	39
	712	00	00	10
	697	00	01	91
	696	00	02	78
	690	00	02	31
	689	00	02	09
	430	00	03	68
	431	00	04	73
	429	00	06	42
	427	00	02	26
	426	00	04	50
	807	00	00	16
	423	00	01	87
	422	00	06	48
	810	00	00	77
	809	00	00	56
	808	00	00	71
	416	00	05	70
	421	00	01	48
	415	00	00	10
	417	00	03	05
	418	00	06	54
	403	00	15	33
	402	00	02	18
	252	00	00	72
	251	00	07	14
	250	00	02	91
	249	00	05	15
	243	00	04	13
	205	00	00	10
	204	00	16	83
	203	00	06	11
	201	00	00	65
	200	00	00	24
	198	00	00	54

1	2	3	4	5
Kalyanpursasan	194	00	02	43
	195	00	00	10
	174	00	02	19
	175	00	08	06
	172	00	20	44
	171	00	00	49
Tikarpada	81	00	13	44
	80	00	02	38
	17	00	11	93
	14	00	05	50
	16	00	01	02

[No. R-25011/17/2009-OR-I]

B. K. DATTA, Under Secy.

नई दिल्ली, 29 सितम्बर, 2010

का.आ. 2504.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का .आ. 3349 तारीख 2 दिसम्बर, 2009 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उड़ीसा राज्य की तहसिल बालिअन्ता, जिला : खोद्दा की भूमि में, पारादीप-सम्बलपुर-रायपुर-राँची पाइपलाइन परियोजना के कार्यान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा उड़ीसा राज्य में पारादीप से रायपुर (छत्तीसगढ़) एवं राँची (झारखण्ड) तक पेट्रोलियम उत्पादन के परिवहन के लिए पाइपलाइन बिछाने हेतु उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और, उक्त अधिसूचना की प्रतियाँ जनता को तारीख 13 जनवरी, 2010 को उपलब्ध करा दी गई थी;

और, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त हो कर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा ।

अनुसूची		तहसील-बालिअन्ता	जिला-खोद्दा	राज्य-उड़ीसा		
गांव का नाम	प्लाट नं.	क्षेत्रफल	हेक्टेयर	एयर	कर्म	मौद्रा
1	2	3	4	5	6	7
उपरासाहि	1909	00	06	22		
	2722	00	03	36		
	1908	00	03	32		
	1873	00	01	43		
	1867	00	06	27		
	1874	00	11	86		
	1878	00	00	39		
	1880	00	10	64		
	1879	00	01	58		
	1881	00	05	56		
	1882	00	00	42		
	1883	00	04	97		
	1884	00	09	36		
	1885	00	01	80		
	1886	00	06	12		
	1887	00	03	50		
	1330	00	18	40		
	1328	00	02	83		
	1327	00	00	20		
	1303	00	00	19		
	1304	00	10	81		
	1305	00	00	30		
	1295	00	01	16		
	1294	00	09	96		
	1292	00	00	10		
	1293	00	00	48		
	1289	00	12	57		
	1423	00	01	99		
	1279	00	03	46		
	2669	00	01	75		
	1229	00	09	09		
	1227	00	00	20		
	1226	00	08	26		

	2	3	4	5	1	2	3	4	5
उपरासाहि	1225	00	00	74	प्रतापुद्धपुर-1	5765	00	06	03
	1220	00	01	36		5755	00	00	10
	2729	00	01	32		5754	00	00	28
	1218	00	03	25		5753	00	00	79
	1219	00	06	46		5767	00	05	96
	1097	00	00	30		5768	00	01	06
	1202	00	13	66		5775	00	13	93
	1205	00	13	54		5769	00	00	74
	2726	00	00	26		6049	00	01	31
	1204	00	13	34		5774	00	00	10
	1143	00	02	97		5772	00	09	64
	1151	00	12	70		5771	00	02	03
	1152	00	15	19		4867	00	09	49
	1150	00	00	30		4866	00	08	31
	1149	00	00	10		4865	00	00	54
प्रतापुद्धपुर-1	5943	00	02	98		4863	00	14	27
	5578	00	11	11		4861	00	00	63
	5598	00	05	15		4862	00	08	35
	5597	00	01	26		4811	00	08	64
	5599	00	01	30		4812	00	01	62
	5596	00	01	23		4813	00	00	39
	5595	00	01	90		4581	00	02	32
	5600	00	03	73		4646	00	01	93
	5592	00	02	53		4647	00	00	15
	5594	00	01	16		4644	00	02	25
	5593	00	01	11		4651	00	02	37
	5590	00	00	87		4643	00	02	42
	5591	00	00	94		5997	00	00	10
	5623	00	01	98		4641	00	00	60
	5624	00	01	44		4640	00	01	21
	5622	00	09	48		4639	00	01	21
	5634	00	07	58		4638	00	02	43
	5632	00	09	14		4592	00	04	38
	5629	00	07	41		4617	00	00	10
	5628	00	11	98		3949	00	03	24
	5759	00	01	85		4585	00	02	53
	5758	00	03	51		4586	00	01	62
	5764	00	03	23		4587	00	01	21
	5763	00	01	31					

1	2	3	4	5	1	2	3	4	5
प्रतापुद्रपुर-1	4588	00	02	02	सदासिमुल	158	00	06	78
	4584	00	03	39		164	00	05	55
	4589	00	01	62		156	00	00	10
	4590	00	01	21		160	00	00	30
	4591	00	01	28		161	00	00	81
	4583	00	01	90		162	00	01	62
	4582	00	01	08		163	00	00	61
	3958	00	02	58		120	00	02	37
	3957	00	02	68		119	00	03	24
	3956	00	00	91		112	00	03	36
	3955	00	01	62		111	00	02	74
	3954	00	01	63		110	00	01	26
	3951	00	01	62		181	00	04	10
	3950	00	01	32		88	00	10	90
	3947	00	00	77		61	00	00	30
	3948	00	05	07		66	00	06	64
	3946	00	02	02		65	00	04	24
	3945	00	04	78	भइलो	390	00	04	94
	3944	00	00	82		381	00	16	15
	3943	00	00	17		394	00	00	53
	3928	00	03	47		373	00	04	47
	3927	00	00	30		374	00	04	97
	3930	00	00	46		370	00	04	19
	3929	00	02	93		371	00	00	10
	3931	00	00	15		369	00	00	20
	3933	00	02	43		364	00	00	10
	3934	00	00	92		366	00	06	95
	3935	00	02	14		368	00	01	14
	3932	00	00	13		367	00	06	95
	3918	00	00	10		365	00	00	10
	3936	00	00	10		355	00	10	76
	3917	00	02	34		356	00	00	55
	3916	00	03	51		354	00	00	22
	3914	00	02	05		353	00	00	30
	3897	00	03	83		347	00	08	31
	3890	00	00	10		329	00	14	60
	3892	00	05	57		399	00	04	27
	3907	00	01	07		334	00	03	09

1	2	3	4	5	1	2	3	4	5
भइलो	333	00	06	96	बरिजंगा	416	00	04	38
	336	00	04	29		397	00	00	13
	314	00	00	38		398	00	04	29
	312	00	03	10		400	00	09	35
	313	00	01	58		401	00	00	32
	337	00	00	10		402	00	00	30
	311	00	00	10		399	00	07	87
	310	00	06	93		403	00	01	08
	276	00	03	02		391	00	07	02
	272	00	01	22		389	00	12	71
	271	00	00	95		390	00	01	77
	245	00	02	10		387	00	02	80
	246	00	09	19		386	00	08	29
	247	00	01	76		408	00	01	06
	248	00	09	10		113	00	01	03
	258	00	00	10		112	00	00	10
	252	00	02	60		114	00	12	27
	251	00	01	24		115	00	04	34
	253	00	04	23		127	00	01	61
	254	00	02	17		991	00	02	60
	214	00	05	34		992	00	02	79
	213	00	00	10		126	00	03	16
						124	00	07	23
5. खमनासासन	937	00	07	73		123	00	02	30
	936	00	01	84		122	00	00	10
	938	00	00	26		145	00	01	94
	939	00	06	15		146	00	00	65
	943	00	00	17		144	00	02	52
	941	00	06	17		147	00	03	56
	940	00	06	63		157	00	01	95
6. बरिजंगा	424	00	00	18		158	00	00	30
	423	00	00	46		282	00	00	10
	1011	00	00	29		159	00	04	67
	422	00	00	95		160	00	08	71
	421	00	00	53		161	00	02	36
	418	00	03	53		162	00	08	4
	420	00	00	39		179	00	00	30
	417	00	09	12		163	00	01	00

1	2	3	4	5	1	2	3	4	5
बरिजंगा	178	00	00	10	झिन्टीसासन	4087	00	02	82
	177	00	04	76		4081	00	02	87
	176	00	03	07		4082	00	07	81
	175	00	03	54		4085	00	05	64
	174	00	03	15		4083	00	03	63
	173	00	02	19		4084	00	01	21
	183	00	05	04		4079	00	00	30
	184	00	06	79		4610	00	00	38
	185	00	01	33		4597	00	00	33
	186	00	00	30		4630	00	08	11
	222	00	05	84		4631	00	01	16
	192	00	04	63		4632	00	06	93
	191	00	07	12		4643	00	01	25
झिन्टीसासन	5639	00	01	49		4642	00	03	42
	5638	00	00	20		4646	00	00	41
	4284	00	03	67		4647	00	00	18
	4285	00	00	86		4641	00	00	41
	4283	00	02	10		4640	00	03	13
	4286	00	05	79		4639	00	02	57
	4287	00	00	10		4638	00	01	38
	4288	00	07	06		4659	00	01	65
	4289	00	04	72		4703	00	04	48
	4292	00	00	14		4702	00	00	14
	4120	00	06	35		4700	00	06	61
	4119	00	06	76		4698	00	03	12
	4118	00	00	71		4696	00	01	11
	4106	00	03	33		4750	00	00	13
	4107	00	05	56		4754	00	01	21
	4103	00	03	92		4753	00	01	18
	4109	00	00	10		4755	00	01	15
	4102	00	00	10		4756	00	04	12
	4101	00	04	13		4752	00	02	28
	4100	00	00	19		4757	00	00	17
	4095	00	03	31		4772	00	00	30
	4096	00	03	30		4789	00	06	35
	4094	00	00	20		4788	00	00	15
	4093	00	01	98		4786	00	09	67
						4787	00	03	90

1	2	3	4	5	1	2	3	4	5	
	झिन्टीसासन	4798	00	01	63	झिन्टीसासन	2653	00	01	64
		4797	00	03	02		2613	00	33	44
		4799	00	00	20		2612	00	00	90
		4803	00	03	46		2592	00	03	71
		4800	00	00	50		2561	00	04	10
		4802	00	03	23		2560	00	01	46
		4801	00	00	11		2520	00	00	70
		4808	00	03	39		2479	00	09	56
		4809	00	03	82		2478	00	01	90
		4816	00	03	24		2482	00	05	11
		4815	00	03	52		2483	00	12	75
		4814	00	03	51		2484	00	01	40
		4813	00	03	14		2486	00	13	78
		4908	00	07.	95		2494	00	03	54
		4909	00	00	27		2499	00	03	09
		4906	00	01	81		2498	00	05	58
		4910	00	06	30		2495	00	00	10
		4904	00	07	51		2497	00	03	07
		2722	00	02	10		2521	00	02	49
		5705	00	17	74		2136	00	02	20
		2730	00	00	33		2047	00	03	68
		2731	00	05	94		2046	00	01	66
		2737	00	00	10		2045	00	05	03
		2736	00	00	95		2061	00	09	04
		2735	00	02	72		2066	00	09	38
		2734	00	01	93		2069	00	00	30
		2733	00	00	17		2075	00	00	41
		2745	00	00	15		2074	00	04	05
		2746	00	01	69		2070	00	00	54
		2747	00	03	69		2071	00	04	04
		2748	00	05	89		2073	00	03	77
		2741	00	02	75		2072	00	00	36
		2749	00	00	10		2081	00	00	79
		2767	00	06	29		2083	00	05	00
		2678	00	01	81		2085	00	07	93
		2677	00	04	31		2084	00	00	12
		2675	00	03	92		1988	00	01	03
		2676	00	02	50		1989	00	00	75
		2655	00	03	02					[सं. आर.-25011/18/2009-ओ आर.-1]
		2654	00	00	73					बी. के. दत्ता, अवर सचिव

New Delhi, the 29th September, 2010

S.O. 2504.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3349 dated 2.12.2009 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the land in Tehsil-Balianta, District-Khurda, in Orissa State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Petroleum products from Paradip (Orissa) to Raipur (Chhattisgarh) and Ranchi (Jharkhand) by Indian Oil Corporation Limited;

And whereas, copies of the said notification were made available to the public on 13th January, 2010;

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act, submitted his report to the Central Government;

And whereas, the Central Government has after considering the said report, decided to acquire the right of user in the land specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, Central Government hereby directs the right of user in the said land shall instead of vesting in the Central Government, vest on date of publication of this declaration, in Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Balianta District : Khurda State : Orissa

Name of the Village	Plot No.	Area		
		Hectare	Are	Sq. mtr.
1	2	3	4	5
Uparasahi	1909	00	06	22
	2722	00	03	36
	1908	00	03	32
	1873	00	01	43
	1867	00	06	27
	1874	00	11	86
	1878	00	00	30
	1880	00	10	64
	1879	00	01	58
	1881	00	05	56
	1882	00	00	42

1	2	3	4	5
Uparasahi	1883	00	04	97
	1884	00	09	36
	1885	00	01	80
	1886	00	06	12
	1887	00	03	50
	1330	00	18	40
	1328	00	02	83
	1327	00	00	20
	1303	00	00	10
	1304	00	10	81
	1305	00	00	30
	1295	00	01	15
	1294	00	09	96
	1292	00	00	10
	1293	00	00	48
	1289	00	12	57
	1423	00	01	99
	1279	00	03	46
	2669	00	01	75
	1229	00	09	09
	1227	00	00	20
	1226	00	08	26
	1225	00	00	74
	1220	00	01	36
	2729	00	01	32
	1218	00	03	25
	1219	00	06	46
	1097	00	00	30
	1202	00	13	66
	1205	00	13	54
	2726	00	00	26
	1204	00	13	34
	1143	00	02	97
	1151	00	12	70
	1152	00	15	19
	1150	00	00	30
	1149	00	00	10
Prataprudra-pur-1	5943	00	02	98
	5578	00	11	11
	5598	00	05	15
	5597	00	01	26
	5599	00	01	30
	5596	00	01	23

1	2	3	4	5	1	2	3	4	5
Prataprudra-pur-1	5595	00	01	90	Prataprudra-pur-1	4643	00	02	42
	5600	00	03	73		5997	00	00	10
	5592	00	02	53		4641	00	00	60
	5594	00	01	16		4640	00	01	21
	5593	00	01	11		4639	00	01	21
	5590	00	00	87		4638	00	02	43
	5591	00	00	94		4592	00	04	38
	5623	00	01	98		4617	00	00	10
	5624	00	01	44		3949	00	03	24
	5622	00	09	48		4585	00	02	53
	5634	00	07	58		4586	00	01	62
	5632	00	09	14		4587	00	01	21
	5629	00	07	41		4588	00	02	02
	5628	00	11	98		4584	00	03	39
	5759	00	01	85		4589	00	01	62
	5758	00	03	51		4590	00	01	21
	5764	00	03	23		4591	00	01	28
	5763	00	01	31		4583	00	01	90
	5765	00	06	03		4582	00	01	08
	5755	00	00	10		3958	00	02	58
	5754	00	00	28		3957	00	02	68
	5753	00	00	79		3956	00	00	91
	5767	00	05	96		3955	00	01	62
	5768	00	01	06		3954	00	01	63
	5775	00	13	93		3951	00	01	62
	5769	00	00	74		3950	00	01	32
	6049	00	01	31		3947	00	00	77
	5774	00	00	10		3948	00	05	07
	5772	00	09	64		3946	00	02	02
	5771	00	02	03		3945	00	04	78
	4867	00	09	49		3944	00	00	82
	4866	00	08	31		3943	00	00	17
	4865	00	00	54		3928	00	03	47
	4863	00	14	27		3927	00	00	30
	4861	00	00	63		3930	00	00	46
	4862	00	08	35		3929	00	02	93
	4811	00	08	64		3931	00	00	15
	4812	00	01	62		3933	00	02	43
	4813	00	00	39		3934	00	00	92
	4581	00	02	32		3935	00	02	14
	4646	00	01	93		3932	00	00	13
	4647	00	00	15		3918	00	00	10
	4644	00	02	25		3936	00	00	10
	4651	00	02	37		3917	00	02	34

1	2	3	4	5	1	2	3	4	5
Prataprudra-	3916	00	03	51	Bhailo	333	00	06	96
pur-1	3914	00	02	05		336	00	04	29
	3897	00	03	83		314	00	00	38
	3890	do	00	10		312	00	03	10
	3892	00	05	57		313	00	01	58
	3907	00	01	07		337	00	00	10
Sadasimul	158	00	06	78		311	00	00	10
	164	00	05	55		310	00	06	93
	156	00	00	10		276	00	03	02
	160	00	00	.30		272	00	01	22
	161	00	00	81		271	00	00	95
	162	00	01	62		245	00	02	10
	163	00	00	61		246	00	09	19
	120	00	02	37		247	00	01	76
	119	00	03	24		248	00	09	10
	112	00	03	36		258	00	00	10
	111	00	02	74		252	00	02	60
	110	00	01	26		251	00	01	24
	181	00	04	10		253	00	04	23
	88	00	10	90		254	00	02	17
	61	00	00	30		214	00	05	34
	66	00	06	64		213	00	00	10
	65	00	04	24	Khamangasasan	937	00	07	73
Bhailo	390	00	04	94		936	00	01	84
	381	00	16	15		938	00	00	26
	394	00	00	53		939	00	06	15
	373	00	04	47		943	00	00	17
	374	00	04	97		941	00	06	17
	370	00	04	19		940	00	06	63
	371	00	00	10	Barijanga	424	00	00	18
	369	00	00	20		423	00	00	46
	364	00	00	10		1011	00	00	29
	366	00	06	95		422	00	00	95
	368	00	01	14		421	00	00	53
	367	00	06	95		418	00	03	53
	365	00	00	10		420	00	00	39
	355	00	10	76		417	00	09	12
	356	00	00	55		416	00	04	38
	354	00	00	22		397	00	00	13
	353	00	00	30		398	00	04	29
	347	00	08	31		400	00	09	35
	329	00	14	60		401	00	00	32
	399	00	04	27		402	00	00	30
	334	00	03	09		399	00	07	87

1	2	3	4	5	1	2	3	4	5
Barijanga	403	00	01	08	Jhintisasan	5639	00	01	49
	391	00	07	02		5638	00	00	20
	389	00	12	71		4284	00	03	67
	390	00	01	77		4285	00	00	86
	387	00	02	80		4283	00	02	10
	386	00	08	29		4286	00	05	79
	408	00	01	06		4287	00	00	10
	113	00	01	03		4288	00	07	06
	112	00	00	10		4289	00	04	72
	114	00	12	27		4292	00	00	14
	115	00	04	34		4120	00	06	35
	127	00	01	61		4119	00	06	76
	991	00	02	60		4118	00	00	71
	992	00	02	79		4106	00	03	33
	126	00	03	16		4107	00	05	56
	124	00	07	23		4103	00	03	92
	123	00	02	30		4109	00	00	10
	122	00	00	10		4102	00	00	10
	145	00	01	94		4101	00	04	13
	146	00	00	65		4100	00	00	19
	144	00	02	52		4095	00	03	31
	147	00	03	56		4096	00	03	30
	157	00	01	95		4094	00	00	20
	158	00	00	30		4093	00	01	98
	282	00	00	10		4087	00	02	82
	159	00	04	67		4081	00	02	87
	160	00	08	71		4082	00	07	81
	161	00	02	36		4085	00	05	04
	162	00	08	41		4083	00	03	90
	179	00	00	30		4084	00	01	21
	163	00	01	00		4079	00	00	30
	178	00	00	10		4610	00	00	30
	177	00	04	76		4597	00	00	44
	176	00	03	07		4630	00	08	29
	175	00	03	54		4631	00	01	14
	174	00	03	15		4632	00	06	86
	173	00	02	19		4643	00	01	25
	183	00	05	04		4642	00	03	42
	184	00	06	79		4646	00	00	57
	185	00	01	33		4647	00	00	16
	186	00	00	30		4641	00	00	42
	222	00	05	84		4640	00	03	15
	192	00	04	63		4639	00	02	95
	191	00	07	12		4638	00	01	88
						4659	00	01	03
						4703	00	04	95
						4702	00	00	30

1	2	3	4	5	1	2	3	4	5
Jhintisanan	4700	00	06	07	Jhintisanan	2749	00	00	10
	4698	00	03	32		2767	00	06	29
	4696	00	01	00		2678	00	01	81
	4750	00	00	10		2677	00	04	31
	4754	00	01	21		2675	00	03	92
	4753	00	01	18		2676	00	02	50
	4755	00	01	43		2655	00	03	02
	4756	00	04	62		2654	00	00	73
	4752	00	02	7		2653	00	01	64
	4757	00	00	10		2613	00	33	44
	4772	00	00	30		2612	00	00	90
	4789	00	06	35		2592	00	03	71
	4788	00	00	10		2561	00	04	10
	4786	00	09	62		2560	00	01	46
	4787	00	03	95		2520	00	00	70
	4798	00	01	63		2479	00	09	56
	4797	00	03	02		2478	00	01	90
	4799	00	00	20		2482	00	05	11
	4803	00	03	46		2483	00	12	75
	4800	00	00	50		2484	00	01	40
	4802	00	03	23		2486	00	13	78
	4801	00	00	11	Jhintisanan	2499	00	03	09
	4808	00	03	39		2498	00	05	58
	4809	00	03	82		2495	00	00	10
	4816	00	03	24		2497	00	03	07
	4815	00	03	52		2521	00	02	49
	4814	00	03	51		2136	00	02	20
	4813	00	03	14		2047	00	03	68
	4908	00	07	95		2046	00	01	66
	4909	00	00	27		2045	00	05	03
	4906	00	01	81		2061	00	09	04
	4910	00	06	30		2066	00	09	38
	4904	00	07	51		2069	00	00	30
	2722	00	02	10		2075	00	00	41
	5705	00	17	74		2074	00	04	05
	2730	00	00	33		2070	00	00	54
	2731	00	05	94		2071	00	04	04
	2737	00	00	10		2073	00	03	77
	2736	00	00	95		2072	00	00	36
	2735	00	02	72		2081	00	00	79
	2734	00	01	93		2083	00	05	00
	2733	00	00	17		2085	00	07	93
	2745	00	00	15		2084	00	00	12
	2746	00	01	69		1988	00	01	03
	2747	00	03	69		1989	00	00	75
	2748	00	05	89					
	2741	00	02	75					

नई दिल्ली, 29 सितम्बर, 2010

का.आ. 2505.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पारादीप (उडीसा) से रायपुर (छत्तीसगढ़) एवं राँची (झारखण्ड) तक पेट्रोलियम उत्पादों के परिवहन के लिये इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा "पारादीप-सम्बलपुर-रायपुर-राँची पाइपलाइन" बिछाई जानी चाहिये;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह प्रतीत होता है कि ऐसी भूमि, जिसके नीचे पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपावद्ध अनुसूची में वर्णित है, में उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितवद्ध है, उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ जनसाधारण को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में श्री दिलीप कुमार अग्रवाल, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पारादीप- सम्बलपुर-रायपुर-राँची पाइपलाइन परियोजना, एन-17, सेक्टर 2, अवांति विहार, रायपुर-492006 (छत्तीसगढ़) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील-कोरबा	जिला-कोरबा	राज्य-छत्तीसगढ़		
क्रम गांव का नाम	खसरा सं.	क्षेत्रफल		
संख्या		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
1. तिलकेजा	1637	00	10	52
	1638	00	19	08
	1639	00	02	74
	1631	00	06	74
	1629	00	03	63
	1640	00	24	01
	1627	00	14	00
	1626	00	15	26
	1621	00	01	04
	1625	00	01	45
	1624	00	02	94
	1472	00	08	49
	1478	00	00	27

1	2	3	4	5	6
तिलकेजा	1476	00	00	10	
	1475	00	11	78	
	1474	00	07	59	
	1473	00	07	66	
	1461	00	16	89	
	1460	00	06	48	
	1462	00	00	10	
	1459	00	19	30	
	1454	00	10	96	
	1446	00	00	42	
	1456	00	04	55	
	1455	00	30	21	
	1422	00	02	91	
	1425	00	03	43	
	1426	00	27	16	
	274	00	00	71	
	273	00	27	73	
	272	00	09	55	
	269	00	11	79	
	235	00	26	22	
	234	00	21	71	
	229	00	19	63	
	150	00	07	67	
	151	00	10	34	
	149	00	12	03	
	142	00	15	70	
	141	00	05	59	
	128	00	03	18	
	123	00	05	26	
	120	00	14	53	
	117	00	13	09	
	76	00	09	84	
	75	00	00	87	
	77	00	09	54	
	78	00	03	02	
	45	00	19	25	
	40	00	04	35	
	44	00	09	87	
	30	00	04	12	
	31	00	29	72	
	29	00	07	37	
	14	00	05	10	

1	2	3	4	5	6	1	2	3	4	5	6
	तिलकेजा	21	00	06	10		बगबुडा	6/4	00	00	87
		15	00	11	03			6/3	00	03	19
		20	00	03	29			6/1	00	07	86
		19	00	18	84			5	00	15	25
		18	00	03	68			4	00	04	08
		16	00	10	58	3. मसान	368/2	00	00	35	
2.	बगबुडा	410	00	02	30			368/1	00	07	62
		420	00	02	64			367/1	00	05	72
		441	00	01	33			367/2	00	01	07
		440	00	20	63			366	00	07	50
		439	00	06	21			335/1	00	05	25
		444/4	00	10	23			335/3	00	01	27
		444/5	00	00	48			331/4-8	00	00	90
		444/3	00	05	38			330/1	00	04	95
		445	00	08	00	4. कुकरी चोली	542/2	00	02	19	
		446/3	00	16	37			528/4	00	07	66
		446/1,448/2	00	00	11			539/5	00	08	32
		449/1	00	01	82			539/1	00	03	12
		449/2	00	08	28			537/1	00	04	65
		448/1	00	01	22			537/2	00	03	23
		321/6	00	01	06			536/2	00	05	76
		321/3	00	00	10			535/1	00	06	34
		321/2	00	11	61			514	00	10	91
		323	00	07	28			513	00	11	57
		328	00	08	08			512/2	00	04	11
		324/2	00	00	10			511	00	08	37
		324/1	00	03	29			558/6	00	08	72
		327	00	15	38			507/3	00	09	06
		326/1	00	00	10			306/1	00	00	23
		279/2	00	06	93			306/2	00	02	29
		326/4	00	02	00			306/3	00	08	00
		279/1	00	06	74			307,309/2	00	07	78
		281/4	00	07	35			310/7	00	01	13
		281/5	00	07	38			310/3	00	03	65
		281/2	00	04	32			310/5	00	00	43
		281/1	00	00	10			309/1	00	09	33
		271	00	07	55			311/1	00	04	60
		272	00	14	51			311/4	00	03	88
		57	00	04	35			316/1	00	07	64
		56	00	03	13			316/4	00	07	66
		55	00	02	82			316/2	00	04	33
		54	00	16	41			318/1	00	00	34

1	2	3	4	5	6	1	2	3	4	5	6
कुकरी चोली	318/2		00	01	87	कुकरी चोली	73		00	03	85
	316/5		00	01	80		72/2		00	01	52
	316/6		00	03	75		76		00	06	20
	45/2,232/2,		00	03	09		65/9,70,		00	10	10
	46/2,4 7/4,						65/8				
	48/2,49/5,						65/1,83/1		00	17	02
	379/2,49/6,					5. कुरडीह	851		00	45	87
	49/3,52/9,						843		00	06	54
	87/4,3 80/1j,						849		00	05	13
	378/6,377/2,						480		00	00	10
	320/8,318/8,						769/1		00	09	79
	399/11,319/2,						769/3		00	00	48
	314/2,316/9,						779/1		00	47	84
	315/3,315/4,						746,747		00	03	21
	295/2,291/1/5,						778/2		00	00	14
	291/2/3,290/5,						780/1		00	02	40
	290/2,285/2,						781/1		00	20	40
	283/2,284/5,						742/1,743,744		00	03	32
	283/5,286/6,						742/1		00	00	48
	242/6,242/7,						737,741		00	03	44
	233/3						789		00	12	10
	207		00	01	85		735/2		00	07	98
	291/1/6		00	01	33		736		00	04	03
	175/4		00	03	77		791		00	01	43
	176		00	01	69		162/2		00	13	02
	177/2		00	01	19		161/2		00	05	46
	169/2		00	05	92		161/7		00	06	72
	169/1		00	05	22		161/6		00	02	28
	168		00	11	10		162/1		00	05	81
	167		00	10	37		171/4		00	05	21
	165		00	02	11		172		00	07	27
	105		00	00	92		173/2		00	08	95
	96		00	11	70		173/4		00	02	08
	103		00	04	91		189		00	09	63
	101/3		00	15	36		197		00	00	42
	101/4		00	02	91		196		00	04	52
	101/2		00	06	37		192		00	00	77
	101/1		00	09	99		195		00	06	87
	120/2		00	00	11		193/2		00	02	97
	80/1-81		00	19	63		191/2		00	00	65
	120/9		00	00	56		193/1		00	03	04
	120/5		00	02	19		123/3		00	02	28
	74/2		00	04	18						
	74/3		00	07	22						
	120/7		00	00	43						
	74/1		00	05	88						

1	2	3	4	5	6	1	2	3	4	5	6
कुरडीह		123/5	00	03	33	पंडरीपानी	16/6/39	00	00	44	
		120/1	00	01	74		16/44	00	05	85	
		320/3	00	09	38		41	00	02	98	
		320/1	00	21	16		16/4	00	02	86	
		381	00	03	75		589/1	00	00	40	
		382/1	00	06	16		588/1	00	06	15	
		379/4	00	08	70		588/2	00	00	41	
		382/2	00	04	82		587	00	10	98	
		404	00	01	55		586/3	00	03	34	
		368	00	05	73		586/1	00	02	59	
		405	00	04	84		586/2	00	00	10	
		407/2	00	17	81		50,51	00	03	77	
		409/4	00	07	63		57	00	00	80	
		109/1	00	46	64		68	00	02	60	
		410	00	00	94		48	00	00	10	
		409/6	00	02	05		67,73	00	11	14	
		427	00	06	56		65	00	05	05	
		424,425,426	00	10	73		64	00	17	50	
		429/1	00	53	94		74/1	00	02	62	
6. पंडरीपानी		157/1	01	14	16		74/2	00	04	04	
		150,151	00	14	74		601	00	00	17	
		148/4	00	00	45		283/2,284/2,	00	04	67	
		152,155	00	05	37		601/2				
		154,153	00	02	75		283/1,284/1,	00	04	88	
		156	00	13	70		601/1				
		157/41	00	06	35		285	00	07	47	
		157/40	00	00	13		286/2	00	06	80	
		114	00	02	34		287	00	01	42	
		113/1	00	02	74		604	00	08	10	
		157/28	00	03	77		296/7ख	00	07	32	
		113/6	00	02	60		605/2	00	00	10	
		157/29	00	01	83		296/7क	00	10	12	
		115/1	00	02	09		605/1				
		30/6	00	07	57		296/29	00	01	81	
		30/1	00	18	87		296/28	00	02	36	
		31/1	00	00	29		296/27	00	02	46	
		30/3	00	01	69		296/26	00	02	73	
		16/1	00	52	37		296/16ग	00	07	81	
		16/20	00	02	02		296/15क	00	07	37	
		16/17	00	02	85		296/11	00	00	28	
		16/18	00	03	08		606/1	00	08	81	
		16/30	00	00	63		606/2	00	02	09	

1	2	3	4	5	6	1	2	3	4	5	6
पंडरीपानी		296/15ख, 296/14	00	04	24	नक्टीखार		796	00	22	65
		296/9	00	06	96			794	00	00	45
7. नक्टीखार		993	00	11	76			321	00	04	62
		994	00	11	53			322	00	00	41
		995	00	08	08			320	00	05	48
		990	00	02	12			323	00	06	91
		996	00	00	10			325	00	06	48
		989	00	03	65			328	00	01	62
		987	00	07	70			327	00	01	28
		986	00	00	90			331	00	04	72
		985	00	16	20			332	00	01	45
		980	00	11	00			326	00	18	31
		981	00	14	24			304	00	01	59
		976	00	21	55			253	00	11	57
		964	00	04	49			252	00	02	76
		956	00	13	49			251	00	02	52
		951	00	05	88			247	00	03	53
		952	00	00	99			246	00	11	53
		949	00	31	68			283	00	10	50
		948	00	05	43			217	00	00	43
		947	00	00	53			216	00	17	31
		946	00	03	15			293	00	10	82
		933	00*	08	33			295	00	04	04
		816	00	00	14			298	00	06	77
		817	00	11	39			299	00	09	28
		814	00	17	44			478	00	08	58
		820	00	05	37	8. भुलसीडीह		479	00	04	77
		854	00	00	35			49	00	11	21
		821	00	11	46			50	00	06	06
		845	00	10	01			52	00	01	96
		846	00	04	37			54	00	00	68
		842	00	11	57			53	00	03	92
		843	00	01	71			62	00	00	65
		837	00	10	99			63	00	09	42
		833	00	04	46			71	00	04	30
		834	00	02	97			65	00	08	87
		836	00	01	49			68	00	05	70
		835	00	02	18			67	00	03	11
		802	00	01	68			69	00	01	66
		803	00	04	18			87	00	00	74
		804	00	01	49			66	00	00	58
								91	00	04	63

1	2	3	4	5	6	1	2	3	4	5	6
भुलसीडीह		90	00	00	76	भुलसीडीह		565	00	21	41
		92	00	01	60			572	00	02	00
		93	00	00	70			636	00	06	46
		95	00	08	57			638	00	24	63
		96	00	02	00			643	00	06	23
		97	00	02	60			642	00	13	87
		98	00	01	73			644	00	07	36
		99	00	02	81			648	00	03	28
		101	00	05	66			646	00	04	03
		103	00	06	37			647	00	03	19
		276	00	09	36			640	00	00	52
		274	00	17	83			671	00	00	42
		280	00	01	43			651	00	06	48
		269	00	07	89			672	00	17	94
		281	00	09	79			673	00	11	59
		282	00	10	27			674	00	07	91
		288	00	02	15			676	00	10	58
		289	00	03	07			682	00	02	03
		290	00	03	37			677	00	11	02
		291	00	00	31			678	00	07	55
		292	00	01	65			679	00	05	28
		293	00	00	81	9. डुमरडीह		336	00	00	10
		301	00	00	10			1	00	47	82
		302	00	03	25			329/2	00	10	06
		303	00	02	78			329/1	00	04	00
		261	00	01	74			328	00	16	52
		225	00	19	99			318	00	31	40
		230	00	01	21			323	00	14	74
		229	00	00	10			321	00	02	85
		227	00	01	35			277	00	11	18
		226	00	03	79			276	00	00	32
		224	00	00	10			275	00	16	89
		554	00	01	05			273	00	15	70
		181	00	02	23			274	00	15	69
		557	00	02	27			245	00	18	61
		180	00	00	10			232	00	12	11
		558	00	05	25			5	00	05	17
		559	00	11	06			233	00	13	29
		560	00	00	50			243	00	06	65
		561	00	08	59			242	00	03	15
		570	00	12	73			241	00	00	23
		569	00	00	10			234	00	05	93
								210	00	61	09

1	2	3	4	5	6	1	2	3	4	5	6
10. केसला		347/1	00	85	98		केसला	285	00	00	10
		350/1, 350/4	00	07	81			287/4	00	00	10
		350/2	00	06	95			283/1	00	20	52
		350/6	00	06	12			265	00	00	20
		353	00	01	17			264	00	06	28
		352	00	01	99			261	00	06	76
		351	00	01	08			37	00	33	78
		335	00	07	32			35/1	00	12	81
		354/1	00	01	66			35/2	00	01	29
		354/3	00	01	95			34	00	09	22
		354/4	00	01	49			33	00	95	13
		334/1	00	02	07			310	00	01	60
		334/2	00	01	44			31	00	50	59
		333	00	12	61			29	00	04	21
		356	00	39	97			30	00	03	21
		330/1	00	10	69			9/8	00	00	63
		330/2	00	16	71			9/7	00	08	64
		328	00	12	96			9/6	00	09	86
		327	00	06	26			9/5	00	01	14
		326	00	04	52			9/4	00	15	44
		325	00	07	37			9/1	00	56	62
		319	00	14	41			9/15	00	16	47
		320	00	01	26			9/14	00	00	77
		318	00	00	58			10/1	00	10	87
		300	00	04	84	11. दोंदरो		639	00	21	31
		299/2	00	08	13			641	00	13	38
		299/1	00	06	81			643/1	00	00	82
		298	00	01	87			643/2	00	03	58
		272/1क	00	85	23			643/3	00	02	21
		294	00	10	48			625/1	00	00	10
		293/16	00	14	90			623	00	08	47
		293/13	00	00	18			635/3	00	04	95
		293/14	00	00	94			633/1	00	53	26
		293/15	00	01	81			622/2	00	01	40
		292	00	07	92			622/1	00	01	89
		291	00	01	26			602/2	00	01	07
		289, 290	00	01	09			602/3	00	03	55
		287	00	06	64			602/1	00	24	46
		263	01	10	81			575	00	06	36
		286	00	21	24			574	00	06	46
								555	00	19	97

1	2	3	4	5	6	1	2	3	4	5	6
दोंदरे		556	00	07	85	12.	रोगबहरी	364/1	00	01	10
		543	00	00	86			382/4	00	01	02
		563, 559	00	05	25			382/3	00	03	24
		562	00	33	68			382/2	00	02	70
		561	00	03	85			382/1	00	01	45
		563	00	02	57			384/2	00	00	10
		539/2	00	34	16			384/4	00	00	81
		394, 393	00	10	92			383/1	00	04	20
		395	00	02	66			383/2	00	01	00
		396	00	12	65			389	00	01	98
		398/2	00	08	47			396/1	00	04	66
		398/1	00	00	25			396/2	00	09	73
		399/1	00	04	95			436	00	18	22
		401/2	00	15	13			430	00	25	12
		400/1	00	01	62			447	00	04	78
		470/1	00	15	29			448	00	09	77
		51/2	00	11	33			449	00	00	34
		418	00	18	81			475/4	00	05	70
		422	00	02	87			450	00	00	68
		423	00	01	31			475/3	00	02	40
		424	00	03	19			451	00	09	57
		426	00	81	66			118	00	02	65
		429/2	00	03	06			116/2, 117,	00	12	33
		427	00	12	05			452			
		428	00	01	58			130/1	00	18	56
		1	00	07	94			130/5	00	00	99
		442	01	66	31			114	00	01	89
12.	रोगबहरी	327/1	00	05	11			100/1	00	01	22
		328	00	10	21			105	00	23	18
		329, 330, 331, 332	00	07	24			102	00	06	14
		339/2	00	51	97			90	00	17	07
		335, 336	00	10	13			105, 104	00	00	81
		440/1	00	06	19			96	00	02	99
		344/1	00	44	75			98	00	01	60
		344/8	00	00	53			87, 88, 89	00	15	90
		343	00	00	57			18	00	02	39
		369	00	05	42			4/1	00	55	52
		367, 369	00	00	29	13.	जामबहार	280	00	01	20
		367, 368, 362, 365	00	20	69			286	00	06	32
		364/2	00	01	09			287	00	09	97
								288	00	00	10

1	2	3	4	5	6	1	2	3	4	5	6
13. जामबहार		240/2क	00	47	68	सोनपुरी		19/2	00	04	67
		242/3	00	00	61			7	00	05	96
		240/2 जं	00	04	38			64	00	14	92
		240/2 ग	00	00	10			65	00	14	73
		240/2 ज	00	01	34			67	00	10	31
		232/2	00	02	63			70,68	00	03	44
		232/1	00	02	68			63/2	00	16	82
		233/2	00	04	50			71/3	00	10	38
		239	00	00	10			73	00	04	27
		233/1	00	00	18			737/2	00	16	73
		232/1	00	05	59	15. सोनगुडा		585/15	00	05	88
		236	00	06	39			585/14	00	04	43
		237/2,237/3	00	06	14			785/5	00	37	87
		237	00	01	00			785/10	00	14	36
		228/1	00	07	53			532/3	00	31	60
		227/1	00	12	36			520	00	05	82
		227/7	00	01	29			521/4	00	05	85
		227/3	00	05	10			521/3	00	06	20
		227/5	00	01	39			519	00	00	21
		227/4	00	04	10			521/2	00	05	03
		227/8	00	00	30			521/6	00	08	27
		224,225, 226	00	06	31			525	00	00	22
		223	00	02	67			526/1	00	10	71
14. सोनपुरी		744	00	00	64			559	00	10	17
		743/3	00	03	02			558/4	00	14	91
		743/2	00	06	87			538/2	00	00	12
		743/1	00	02	88			558/1	00	00	28
		745	00	28	39			557	00	04	34
		742	00	16	50			556	00	02	08
		740/2	00	08	53			582	00	00	63
		741	00	01	92			581/1	00	06	14
		739	00	04	19			581/2	00	05	21
		740/1	00	23	03			580	00	00	10
		738/1	00	11	22			579	00	05	01
		738/2	00	01	52			578	00	03	46
		737/3	00	08	59			586	00	00	25
		75,76	00	16	49			595	00	06	47
		82,83,84,85	00	12	84			594	00	02	22
		19/1	01	66	72			593	00	14	39
								597	00	04	98
								689/1,689/3	00	25	63
								598	00	03	71

1	2	3	4	5	6
सोनगुडा		600	00	04	28
		691	00	00	98
		688	00	03	07
		687	00	01	21
		693	00	21	54
		685	00	00	10
		657/2	00	02	56
		172	00	33	84

[सं. आर-25011/42/2010-ओ आर-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 29th September, 2010

S.O. 2505.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Paradip (Orissa) to Raipur (Chhattisgarh) and Ranchi (Jharkhand), a "Paradip-Sambalpur-Raipur-Ranchi Pipeline" should be laid by Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Dilip Kumar Agrawal, Competent Authority, Indian Oil Corporation Limited, Paradip-Sambalpur-Raipur-Ranchi Pipeline Project, N-17, Sector-2, Avanti Vihar, Raipur-492006, Chhattisgarh.

SCHEDULE

Tehsil: Korba District: Korba State : Chhattisgarh

Sl. No.	Name of the Village	Khasara No.	Area		
			Hectare	Are	Sq. mtr.
1	2	3	4	5	6
1.	Tilkeja	1637	00	10	52
		1638	00	19	08
		1639	00	22	74
		1631	00	06	74
		1629	00	03	63

Tilkeja	1640	00	24	01
	1627	00	14	00
	1626	00	15	26
	1621	00	01	04
	1625	00	01	45
	1624	00	02	94
	1472	00	08	49
	1478	00	00	27
	1476	00	00	10
	1475	00	11	78
	1474	00	07	59
	1473	00	07	62
	1461	00	16	89
	1460	00	06	48
	1462	00	00	10
	1459	00	19	30
	1454	00	10	96
	1446	00	00	42
	1456	00	04	55
	1455	00	30	21
	1422	00	02	91
	1425	00	03	43
	1426	00	27	16
	274	00	00	71
	273	00	27	73
	272	00	09	55
	269	00	11	79
	235	00	26	22
	234	00	21	71
	229	00	19	63
	150	00	07	67
	151	00	10	31
	149	00	12	03
	142	00	15	70
	141	00	05	59
	128	00	03	18
	123	00	05	26
	120	00	14	51
	117	00	13	69
	76	00	09	81
	75	00	00	87
	77	00	09	53

1	2	3	4	5	6	1	2	3	4	5	6
1. Tilkeja		78	00	03	02	2	Bagbuda	281/2	00	04	32
		45	00	19	25			281/1	00	00	10
		40	00	04	35			271	00	07	55
		44	00	09	87			272	00	14	51
		30	00	04	12			57	00	04	35
		31	00	29	72			56	00	03	13
		29	00	07	37			55	00	02	82
		14	00	05	10			54	00	16	41
		21	00	06	10			6/4	00	00	87
		15	00	11	03			6/3	00	03	19
		20	00	03	29			6/1	00	07	86
		19	00	18	84			5	00	15	25
		18	00	03	68			4	00	04	08
		16	00	10	58	3.	Másan	368/2	00	00	35
2 Bagbuda		410	00	02	30			368/1	00	07	62
		420	00	02	64			367/1	00	05	72
		441	00	01	33			367/2	00	01	07
		440	00	20	63			366	00	07	50
		439	00	06	21			335/1	00	05	25
		444/4	00	10	23			335/3	00	01	27
		444/5	00	00	48			331/4-8	00	00	90
		444/3	00	05	38			330/1	00	04	95
		445	00	08	00	4.	Kukri Choli	542/2	00	02	19
		446/3	00	16	37			528/4	00	07	66
		446/1,448/2	00	00	11			539/5	00	08	32
		449/1	00	01	82			539/1	00	03	12
		449/2	00	08	28			537/1	00	04	65
		448/1	00	01	22			537/2	00	03	23
		321/6	00	01	06			536/2	00	05	76
		321/3	00	00	10			535/1	00	06	34
		321/2	00	11	61			514	00	10	91
		323	00	07	28			513	00	11	57
		328	00	08	08			512/2	00	04	11
		324/2	00	00	10			511	00	08	37
		324/1	00	03	29			558/6	00	08	72
		327	00	15	38			507/3	00	09	06
		326/1	00	00	10			306/1	00	00	23
		279/2	00	06	93			306/2	00	02	29
		326/4	00	02	00			306/3	00	08	00
		279/1	00	06	74			307,309/2	00	07	78
		281/4	00	07	35			310/7	00	01	12
		281/5	00	07	38			310/3	0	03	65

1	2	3	4	5	6	1	2	3	4	5	6
Kukri Choli		310/5	00	00	43	4. Kukri Choli	120/2	00	00	11	
		309/1	00	09	33		80/1-81	00	19	63	
		311/1	00	04	60		120/9	00	00	56	
		311/4	00	03	88		120/5	00	02	19	
		316/1	00	07	04		74/2	00	04	18	
		316/4	00	07	08		74/3	00	07	22	
		316/2	00	04	33		120/7	00	00	43	
		318/1	00	00	34		74/1	00	05	88	
		318/2	00	01	87		73	00	03	85	
		316/5	00	01	80		72/2	00	01	52	
		316/6	00	03	75		76	00	06	20	
		45/2,232/2,	00	03	09		65/9,70,65/8	00	10	10	
		46/2,47/4,					65/1,83/1	00	17	02	
		48/2,49/5,				5. Kurudih	851	00	45	87	
		379/2,49/6,					843	00	06	54	
		49/3,52/9,					849	00	05	13	
		87/4,380/1,					480	00	00	10	
		378/6,377/2,					769/1	00	09	79	
		320/8,318/8,					769/3	00	00	48	
		399/11,319/2,					779/1	00	47	84	
		314/2,316/9,					746,747	00	03	21	
		315/3,315/4,					778/2	00	00	14	
		295/2,291/5,					780/1	00	02	40	
		291/2/3,290/5,					781/1	00	20	40	
		290/2,285/2,					742/1,743,744	00	03	32	
		283/2,284/5,					742/1	00	00	48	
		283/5,286/6,					737,741	00	03	44	
		242/6,242/7,					789	00	12	10	
		233/3					735/2	00	07	98	
		207	00	01	85		736	00	04	03	
		291/1/6	00	01	33		791	00	01	43	
		175/4	00	03	77		162/2	00	13	02	
		176	00	01	69		161/2	00	05	46	
		177/2	00	01	19		161/7	00	06	72	
		169/2	00	05	92		161/6	00	02	28	
		169/1	00	05	22		162/1	00	05	81	
		168	00	11	10		171/4	00	05	21	
		167	00	10	37		172	00	07	27	
		165	00	02	11		173/2	00	08	95	
		105	00	00	92		173/4	00	02	08	
		96	00	11	70		189	00	09	63	
		103	00	04	91		197	00	00	42	
		101/3	00	15	36						
		101/4	00	02	91						
		101/2	00	06	37						
		101/1	00	09	99						

1	2	3	4	5	6	1	2	3	4	5	6
Kurudih		196	00	04	52	Pandripani		31/1	00	00	29
		192	00	00	77			30/3	00	01	69
		195	00	06	87			16/1	00	52	37
		193/2	00	02	97			16/20	00	02	02
		191/2	00	00	65			16/17	00	02	85
		193/1	00	03	04			16/18	00	03	08
		123/3	00	02	28			16/30	00	00	63
		123/5	00	03	33			16/6,39	00	00	44
		120/1	00	01	74			16/44	00	05	85
		320/3	00	09	38			41	00	02	98
		320/1	00	21	16			16/4	00	02	86
		381	00	03	75			589/1	00	00	40
		382/1	00	06	16			588/1	00	06	15
		379/4	00	08	70			588/2	00	00	41
		382/2	00	04	82			587	00	10	98
		404	00	01	55			586/3	00	03	34
		368	00	05	73			586/1	00	02	59
		405	00	04	84			586/2	00	00	10
		407/2	00	17	81			50,51	00	03	77
		409/4	00	07	63			57	00	00	80
		109/1	00	46	64			68	00	02	60
		410	00	00	94			48	00	00	10
		409/6	00	02	05			67,73	00	11	14
		427	00	06	56			65	00	05	05
		424,425,426	00	10	73			64	00	17	50
		429/1	00	53	94			74/1	00	02	62
6. Pandripani		157/1	01	14	16			74/2	00	04	04
		150,151	00	14	74			601	00	00	17
		148/4	00	00	45			283/2,284/2,	00	04	67
		152,155	00	05	37			601/2			
		154,153	00	02	75			283/1,284/1,	00	04	88
		156	00	13	70			601/1			
		157/41	00	06	35			285	00	07	47
		157/40	00	00	13			286/2	00	06	80
		114	00	02	34			287	00	01	42
		113/1	00	02	74			604	00	08	10
		157/28	00	03	77			296/7kh	00	07	32
		113/6	00	02	60			605/2	00	00	10
		157/29	00	01	83			296/7kA,	00	10	12
		115/1	00	02	09			605/1			
		30/6	00	07	57			296/29	00	01	81
		30/1	00	18	87			296/28	00	02	36
								296/27	00	02	46

1	2	3	4	5	6	1	2	3	4	5	6
Pandripani		296/26	00	02	73	Naktikhar		834	00	02	97
		296/16G	00	07	81			836	00	01	49
		296/15KA	00	07	37			835	00	02	18
		296/11	00	00	28			802	00	01	68
		606/1	00	08	81			803	00	04	18
		606/2	00	02	09			804	00	01	49
		296/15kha, 296/14	00	04	24			796	00	22	65
		296/9	00	06	96			794	00	00	45
7. Naktikhar		993	00	11	76			321	00	04	62
		994	00	11	53			322	00	00	41
		995	00	08	08			320	00	05	48
		990	00	02	12			323	00	06	91
		996	00	00	10			325	00	06	48
		989	00	03	65			328	00	01	62
		987	00	07	70			327	00	01	28
		986	00	00	90			331	00	04	72
		985	00	16	20			332	00	01	45
		980	00	11	00			326	00	18	31
		981	00	14	24			304	00	01	59
		976	00	21	55			253	00	11	57
		964	00	04	49			252	00	02	76
		956	00	13	49			251	00	02	52
		951	00	05	88			247	00	03	53
		952	00	00	99			246	00	11	53
		949	00	31	68			283	00	10	50
		948	00	05	43			217	00	00	43
		947	00	00	53			216	00	17	31
		946	00	03	15			293	00	10	82
		933	00	08	33			295	00	04	04
		816	00	00	14			298	00	06	77
		817	00	11	39			299	00	09	28
		814	00	17	44	8. Bhulsidhi		478	00	08	58
		820	00	05	37			479	00	04	77
		854	00	00	35			49	00	11	21
		821	00	11	46			50	00	06	06
		845	00	10	01			52	00	01	96
		846	00	04	37			54	00	00	68
		842	00	11	57			53	00	03	92
		843	00	01	71			62	00	00	65
		837	00	10	99			63	00	09	42
		833	00	04	46			71	00	04	30
								65	00	08	87
								68	00	05	70

1	2	3	4	5	6	1	2	3	4	5	6
8.	Bhulsidhi	67	00	03	11		Bhulsidhi	559	00	11	06
		69	00	01	66			560	00	00	50
		87	00	00	74			561	00	08	59
		66	00	00	58			570	00	12	73
		91	00	04	63			569	00	00	10
		90	00	00	76			565	00	21	41
		92	00	01	60			572	00	02	00
		93	00	00	70			636	00	06	46
		95	00	08	57			638	00	24	63
		96	00	02	00			643	00	06	23
		97	00	02	60			642	00	13	87
		98	00	01	73			644	00	07	36
		99	00	02	81			648	00	03	28
		101	00	05	66			646	00	04	03
		103	00	06	37			647	00	03	19
		276	00	09	36			640	00	00	52
		274	00	17	83			671	00	00	42
		280	00	01	43			651	00	06	48
		269	00	07	89			672	00	17	94
		281	00	09	79			673	00	11	59
		282	00	10	27			674	00	07	91
		288	00	02	15			676	00	10	58
		289	00	03	07			682	00	02	03
		290	00	03	37			677	00	11	02
		291	00	00	31			678	00	07	55
		292	00	01	65			679	00	05	28
		293	00	00	81	9.	Dumardih	336	00	00	10
		301	00	00	10			1	00	47	82
		302	00	03	25			329/2	00	10	06
		303	00	02	78			329/1	00	04	00
		261	00	01	74			328	00	16	52
		225	00	19	99			318	00	31	40
		230	00	01	21			323	00	14	74
		229	00	00	10			321	00	02	85
		227	00	01	35			277	00	11	18
		226	00	03	79			276	00	00	32
		224	00	00	10			275	00	16	89
		554	00	01	05			273	00	15	70
		181	00	02	23			274	00	15	69
		557	00	02	27			245	00	18	61
		180	00	00	10			232	00	12	11
		558	00	05	25			5	00	05	17

1	2	3	4	5	6	1	2	3	4	5	6
Dumardih		233	00	13	29	Kesala		289,290	00	01	09
		243	00	06	65			287	00	06	64
		242	00	03	15			263	01	10	81
		241	00	00	23			286	00	21	24
		234	00	05	93			285	00	00	10
		210	00	61	09			287/4	00	00	10
10. Kesala	347/1	00	85	98			283/1	00	20	52	
	350/1,350/4	00	07	81			265	00	00	20	
	350/2	00	06	95			264	00	06	28	
	350/6	00	06	12			261	00	06	76	
	353	00	01	17			37	00	33	78	
	352	00	01	99			35/1	00	12	81	
	351	00	01	08			35/2	00	01	29	
	335	00	07	32			34	00	09	22	
	354/1	00	01	66			33	00	95	13	
	354/3	00	01	95			310	00	01	60	
	354/4	00	01	49			31	00	50	59	
	334/1	00	02	07			29	00	04	21	
	354/2	00	01	44			30	00	03	21	
	333	00	12	61			9/8	00	00	63	
	356	00	39	97			9/7	00	08	64	
	330/1	00	10	69			9/6	00	09	86	
	330/2	00	16	71			9/5	00	01	14	
	328	00	12	96			9/4	00	15	44	
	327	00	06	26			9/1	00	56	62	
	326	00	04	52			9/15	00	16	47	
	325	00	07	37			9/14	00	00	77	
	319	00	14	41			10/1	00	10	87	
	320	00	01	26		11. Dondro	639	00	21	31	
	318	00	00	58			641	00	13	38	
	300	00	04	84			643/1	00	00	82	
	299/2	00	08	13			643/2	00	03	58	
	299/1	00	06	81			643/3	00	02	21	
	298	00	01	87			625/1	00	00	10	
	272/1KA	00	85	23			623	00	08	47	
	294	00	10	48			635/3	00	04	95	
	293/16	00	14	90			633/1	00	53	26	
	293/13	00	00	18			622/2	00	01	40	
	293/14	00	00	94			622/1	00	01	89	
	293/15	00	01	81			602/2	00	01	07	
	292	00	07	92			602/3	00	03	55	
	291	00	01	26			602/1	00	24	46	

1	2	3	4	5	6	1	2	3	4	5	6
11.	Dondro	575	00	06	36	12.	Rogbahri	367,368, 362,365	00	20	69
		574	00	06	46			364/2	00	01	09
		555	00	19	97			364/1	00	01	10
		556	00	07	85			382/4	00	01	02
		543	00	00	86			382/3	00	03	24
		563,559	00	05	25			382/2	00	02	70
		562	00	33	68			382/1	00	01	45
		561	00	03	85			384/2	00	00	10
		563	00	02	57			384/4	00	00	81
		539/2	00	34	16			383/1	00	04	20
		394,393	00	10	92			383/2	00	01	00
		395	00	02	66			389	00	01	98
		396	00	12	65			396/1	00	04	66
		398/2	00	08	47			396/2	00	09	73
		398/1	00	00	25			436	00	18	22
		399/1	00	04	95			430	00	25	12
		401/2	00	15	13			447	00	04	78
		400/1	00	01	62			448	00	09	77
		470/1	00	15	29			449	00	00	34
		51/2	00	11	33			475/4	00	05	70
		418	00	18	81			450	00	00	68
		422	00	02	87			475/3	00	02	40
		423	00	01	31			451	00	09	57
		424	00	03	19			118	00	02	65
		426	00	81	66			116/2,117,	00	12	33
		429/2	00	03	06			452			
		427	00	12	05			130/1	00	18	56
		428	00	01	58			130/5	00	00	99
		1	00	07	94			114	00	01	89
		442	01	66	31			100/1	00	01	22
12.	Rogbahri	327/1	00	05	11			105	00	23	18
		328	00	10	21			102	00	06	14
		329,330, 331,332	00	07	24			90	00	17	07
		339/2	00	51	97			105,104	00	00	81
		335,336	00	10	13			96	00	02	99
		440/1	00	06	19			98	00	01	60
		344/1	00	44	75			87,88,89	00	15	90
		344/8	00	00	53			18	00	02	39
		343	00	00	57			4/1	00	55	52
		369	00	05	42			280	00	01	20
		367,369	00	00	29			286	00	06	32
						13.	Jambahar	287	00	09	97

1	2	3	4	5	6	1	2	3	4	5	6
Jambahar		288	00	00	10	14.	Sonpuri	64	00	14	92
		240/2KA	00	47	68			65	00	14	73
		242/3	00	00	61			67	00	10	31
		240/2 Jm	00	04	38			70,68	00	03	44
		240/2 ga	00	00	10			63/2	00	16	82
		240/2 Ja	00	01	34			71/3	00	10	38
		232/2	00	02	63			73	00	04	27
		232/1	00	02	68			737/2	00	16	73
		233/2	00	04	50	15.	Songudha	585/15	00	05	88
		239	00	00	10			585/14	00	04	43
		233/1	00	00	18			785/5	00	37	87
		232/1	00	05	59			785/10	00	14	36
		236	00	06	39			532/3	00	31	60
		237/2,237/3	00	06	14			520	00	05	82
		237	00	01	00			521/4	00	05	85
		228/1	00	07	53			521/3	00	06	20
		227/1	00	12	36			519	00	00	21
		227/7	00	01	29			521/2	00	05	03
		227/3	00	.05	10			521/6	00	08	27
		227/5	00	01	39			525	00	00	22
		227/4	00	04	10			526/1	00	10	71
		227/8	00	00	30			559	00	10	17
		224,225,226	00	06	31			558/4	00	14	91
		223	00	02	67			538/2	00	00	12
14.	Sonpuri	744	00	00	64			558/1	00	00	28
		743/3	00	03	02			557	00	04	34
		743/2	00	06	87			556	00	02	06
		743/1	00	02	88			582	00	00	63
		745	00	28	39			581/1	00	06	14
		742	00	16	50			581/2	00	05	21
		740/2	00	08	53			580	00	00	10
		741	00	01	92			579	00	05	01
		739	00	04	19			578	00	03	46
		740/1	00	23	03			586	00	00	25
		738/1	00	11	22			595	00	06	47
		738/2	00	01	52			594	00	02	22
		737/3	00	08	59			593	00	14	39
		75,76	00	16	49			597	00	04	98
		82,83,84,85	00	12	84			689/1,689/3	00	25	63
		19/1	01	66	72			598	00	03	71
		19/2	00	04	67			600	00	04	28
		7	00	05	96			691	00	00	98

1	2	3	4	5	6
15.	Songudha	688	00	03	07
		687	00	01	21
		693	00	21	54
		685	00	00	10
		657/2	00	02	56
		172	00	33	84

[No. R-25011/42/2010-OR-1]

B. K. DATTA, Under Secy.

नई दिल्ली, 4 अक्टूबर, 2010

का.आ. 2506.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3039 तारीख 04-11-2009 में, जो भारत के राजपत्र भाग II, खण्ड 3, उपखण्ड (ii) तारीख 7-11-2009 में पृष्ठ 6944 से 6966 तक प्रकाशित की गई थी, निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

पृष्ठ संख्या 6950 से 6966 तक, बामदईपुर, बड़लांग, पारपडा, माणपुर, बडगाबपुर, जगन्नाथपुर, पोखरीयापडा, चकूलिया, बनिपाट, नलकणी, बिलपोखरीयापडा, बारबाटिया, दिगितारी, कियाडिंगिरि, नुआडिही, धुआँसाही गाँवों के लिए “तहसील-कुजंग, जिला-जगतसिंहपुर, राज्य-उड़ीसा” शीर्षक के स्थान पर तहसील-एसमा, जिला-जगतसिंहपुर, राज्य-उड़ीसा” शीर्षक रखा जाएगा।

अधिसूचना का शेष अंश अपरिवर्तित रहेगा।

[फा.सं. आर-25011/9/2007-ओ आर-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 4th October, 2010

S.O. 2506.—In exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3039 dated the 04th November, 2009, published at pages 6966 to 6988, in Part-II, Section 3, Sub-section (ii) of the Gazette of India, dated the 7th November, 2009, namely :—

In the Schedule to the said notification, at pages 6972 to 6988, in place of the heading “Tehsil-Kujang,

District-Jagatsinghpur, State-Orissa” for villages of Bamdeipur, Baulang, Parapara, Manpur, Badagabapur, Jagannathpur, Pokhariapada, Chakulia, Banipat, Nalakani, Bilapokhariapada, Barabatia, Digitari, Kiadingiri, Nuadihi, Dhuansahi, the “Tehsil - Erasama, District-Jagatsinghpur, State-Orissa”, shall be substituted.

The other content of the notification remain unaltered.

[F. No. R-25011/13/2009-OR-1]

B. K. DATTA, Under Secy.

नई दिल्ली, 4 अक्टूबर, 2010

का.आ. 2507.—केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, भारत के राजपत्र में दिनांक 13 जून 2009 को का.आ. 1657 पर प्रकाशित पेट्रोलियम और प्राकृतिक गैस मंत्रालय की दिनांक 11 जून 2009 की अधिसूचना में निम्नलिखित संशोधन करती है :—

उक्त अधिसूचना में, “श्री विकास सारस्वत, उप प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पश्चिमी क्षेत्र पाइपलाइन्स, सेन्ड्रा, पी.ओ. सेन्ड्रा, जिला-पाली (राजस्थान)-306102”, शब्दों तथा अंकों के स्थान पर “रोहित कुमार बघेल, उप प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पश्चिमी क्षेत्र पाइपलाइन्स, सेन्ड्रा, पी.ओ. सेन्ड्रा, जिला-पाली (राजस्थान)-306102”, शब्द तथा अंक रखे जाएंगे।

[फा.सं. आर-25011/9/2007-ओ आर-1]

बी. के. दत्ता, अवर सचिव

New Delhi, the 4th October, 2010

S.O. 2507.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1657 dated 11th June, 2009, published in the Gazette of India on 13th June, 2009, namely :—

In the said notification, for the numbers and words “Shri Vikas Sarswat, Deputy Manager Operations”, Indian Oil Corporation Limited, Western Region Pipelines, Sendra, P.O. Sendra, Distt. Pali (Rajasthan)-306102” the numbers and words, “Shri Rohit Kumar Baghel, Deputy Manager (Operations), Indian Oil Corporation Limited, Western Region Pipelines, Sendra, P.O. Sendra, Distt. Pali (Rajasthan)-306102”, shall be substituted.

[F. No. R-25011/9/2007-OR-1]

B. K. DATTA, Under Secy.

श्रम एवं रोज़गार मंत्रालय

नई दिल्ली, 13 सितम्बर, 2010

का. आ. 2508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, नागपुर के पंचाट (संदर्भ संख्या 85/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/105/2004-आई आर (बी-1),
सं. एल-12012/156/2003-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th September, 2010

S.O. 2508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/85/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workman, which was received by the Central Government on 13-9-2010.

[No. L-12012/105/2004-IR (B-I),
No. L-12012/156/2003-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT,
NAGPUR

Case No. CGIT/NGP/85/2004

Date : 3-9-2010

Petitioner/
Party No. 1 : Shri Mukesh Duryodhan Gajbhiye,
C/o D. R. Gajbhiye,
193, Thawre Colony,
Nagpur-14

Versus

Respondent/
Party No. 2 : The Asstt. General Manager,
State Bank of India,
Region-II, Kingsway,
Nagpur

AWARD

(Dated : 3rd September, 2010)

1. The Central Government being of the opinion of having existence of industrial dispute between the management of State Bank of India, Region-II, Nagpur (2nd Party) and their workman Shri Mukesh Duryodhan Gajbhiye (1st Party) referred the same to this Tribunal for

adjudication under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) (herein after referred as the Act for brevity) as per letter No. L-12012/105/2004-IR (B-I) dated 20-8-2004 with the following Schedule :

“Whether the action of the management of State Bank of India, Region-II, Nagpur (M.S.) in awarding punishment of dismissal from services w.e.f. 29-3-2003 to Sh. Mukesh Duryodhan Gajbhiye, Assistant (Cash/Account), State Bank of India, Kamptee Branch is proper and justified ? If not, to what relief the workman concerned is entitled to ?”

2. On receipt of the reference, both the parties were noticed. The workman, Shri Mukesh Duryodhan Gajbhiye (hereinafter referred as the employee) filed his written statement of claim making prayer to set aside the impugned order of dismissal dated 15-9-2005 passed against him by the Bank and to reinstate him in his original post with back salary, alongwith all the service benefits, pleading inter alia that the dismissal order is based upon such enquiry, which suffered from legal error, non-following of the principles of natural justice and non-giving of proper opportunity to him to defend his case. The employee also raised objection in respect of the legality of the impugned order of dismissal on the ground of non-payment of subsistence allowance in accordance with the provisions of standing orders, refusal of permission to engage an advocate to defend him in the departmental enquiry and that the punishment so awarded is shockingly disproportionate to the charges levelled against him.

3. In reply to the statement of claim, the Bank filed its written statement refuting all the allegations and stating that while the employee was working at Kamptee Branch from 8-7-94 to 10-8-2000, he committed fraud, cheating, theft, criminal breach of trust and forgery with the Bank and so also with its customers and misappropriated a sum of about Rs. 19,70,323 and as such he was suspended from service and a chargesheet was submitted against him containing several charges and Shri S. W. Bokere, Officer SMGS IV was appointed as the Inquiry Officer to conduct the domestic enquiry and a F.I.R. was also lodged against the employee at Kamptee Police Station and the domestic enquiry was held lawfully and properly and by observing the principles of natural justice and by following the provision of Sastry Award, Desai Award and various bipartite settlements which are applicable for the Bank employees and the employee was given all reasonable opportunities to defend himself.

4. Before delving into the merit of the matter, I think it proper to mention about the undisputed and admitted facts of the case, which are as follows :

(i) The employee joined in the State Bank of India, Korba Branch (M.P.) as a Clerk-cum-Cashier

w.e.f. 30-11-1983 and worked there till July, 94. The employee thereafter was transferred to S.B.I., Kamptre Branch, Nagpur as Assistant (Cash & Accounts) on 8-7-94 and worked there till 10-8-2000. Then he was transferred to Ramtek Branch of SBI and was relieved from Kamptee Branch on 10-8-2000 with the instructions to report at Ramtek Branch, but he remained absent from 11-8-2000 to 3-10-2000.

- (ii) While the employee was working in Kamptee Branch of SBI, the Branch Manager of the said Bank lodged a F.I.R. against the employee on the allegations of his committing cheating, fraud, tempering with documents and creating false documents and thereby misappropriating a large sum of money and basing on the said F.I.R. Kamptee Police Station, Case No. 285/2000 under Sections 420, 468 and 406 of the IPC was registered on 23-9-2000 and the said criminal case is still subjudiced in the Court of the Judicial Magistrate, First Class, Kamptee.
- (iii) The employee was placed under suspension on 3-10-2000 on the contemplation of initiation of the departmental proceeding.
- (iv) A memorandum was issued to the workman for various lapses on his part, on 15-2-2001 and the workman filed his reply to the memorandum on 22-3-2001.
- (v) On 11-1-2002, the workman was served with the chargesheet for various misconducts committed by him while working at Kamptee Branch during the period from 8-7-94 to 10-8-2000 and on 11-2-2002, the workman submitted his reply.
- (vi) The management appointed one Mr. S. W. Bokare as the Inquiry Officer to enquire into the charges against the workman.
- (vii) The departmental enquiry was commenced on 2-8-2002 and was completed on 9-10-2002. In the enquiry, 9 witnesses were examined and 134 documents were produced and proved by the management to prove the charges against workman. The workman did not adduce any evidence, either oral or documentary in the enquiry. Thereafter, the Bank submitted prosecution brief on 27-10-2002 with a copy of same to the workman and the workman filed his defence brief before the Inquiry Officer on 11-12-2002.
- (viii) After receipt of the Inquiry Report, the Disciplinary Authority issued show-cause notice to the workman on 6-2-2002 asking him to show cause to the proposed punishment of

dismissal from service without notice and the employee received the same on 17-2-2003 and the employee submitted his show cause on 24-2-2003.

- (ix) After taking into consideration the Inquiry Report and other materials on record, on 26-2-2003 the Disciplinary Authority passed the final order, dismissing the employee from service without notice and such order was received by the employee on 29-3-2003.
- (x) The employee preferred appeal against the order of the Disciplinary Authority to the Appellate Authority on 17-4-2003. The employee was given personal hearing by the Appellate Authority on 11-8-2003 and 16-8-2003 and the Appellate Authority confirmed the order of the Disciplinary Authority and dismissed the appeal.

5. It is necessary to mention here that as this is a case of dismissal, as per the dictum of the Hon'ble Apex Court, this Court decided the validity of the enquiry as a preliminary issue and passed orders on 16-1-2009, holding the enquiry to be legal and proper and to have been conducted as per the principles of natural justice. While deciding the validity of the enquiry, this Court considered about the submissions made by the employee regarding non-payment of the subsistence allowance in accordance with the standing orders and regarding not permitting him to engage an Advocate to defend his case and answered both the issues against him. It was held that the subsistence allowance was paid by the Bank as per Sastri Award and bipartite settlements arrived at from time to time, which are applicable to the Bank employees and that the standing orders referred by the employee are not applicable to the Bank. It was also held that as no Advocate was engaged by the Bank to present its case in the enquiry, the employee was not prejudiced by not allowing him to engage an Advocate to defend him and he had given full opportunity to defend his case.

6. The questions remain for consideration is regarding the perversity of the findings and validity of the punishment imposed upon the employee.

7. In this regard, it was contended by the learned counsel for the employee that during the period from 2000 to 2002, no enquiry was conducted and no explanation was given by the management about the delay in conducting the enquiry and as such the order of dismissal is illegal, arbitrary and the same is based on biased enquiry. It was also contended that when the criminal case was pending against the employee for commission of the alleged offences, there should not be any departmental enquiry on the same self grounds and when the other 3 officers, who were also suspended by the Bank for their alleged

involvement in commission of the offences were not proceeded with and were reinstated, there was no reason to proceed against the present employee and that the punishment imposed upon the workman is shockingly disproportionate to the charges leveled against him.

8. In reply, it was contended by the learned advocate for the Bank that there was no delay in conducting the departmental enquiry and the Bank took necessary steps one after the other for initiation of the departmental enquiry and even if it is held that there was any delay in the matter, still then, the same has no bearing in conducting the departmental enquiry, as the employee was not prejudiced in any way by the same. It was also submitted that proceedings in a criminal case and departmental proceeding can go on simultaneously and there was no bar in their being conducted simultaneously. The further contention was that the three other officers, who were suspended in this case were not at par with the employee and necessary actions were taken against them and they were suitably punished for their negligence and awarding of a lesser punishment to a co-delinquent cannot be taken as a ground for judicial interference with the quantum of punishment and more so, when the allegations in the two cases were contextually different. It was also submitted that the Court or Tribunal cannot interfere with the punishment awarded by Competent Authority in departmental proceedings on ground of the penalty being excessive or disproportionate to the misconduct proved, if the punishment is based on evidence and is not arbitrary, mala fide or perverse.

9. First of all, I will take up the submission made regarding the delay in initiation of the departmental proceedings is concerned. Admittedly the employee was suspended on 3-10-2000 and chargesheet was served on him on 11-1-2002. However, it is found from the record that during the period between 3-10-2000 to 11-1-2002, a memorandum was issued to the employee on 15-2-2001 for various lapses on his part and 22-3-2001, the employee filed reply to the said memorandum. So, it is clear that management was taking necessary steps for initiation of the departmental enquiry after suspension of the employee. Moreover, there is no evidence on record to show that due to the delay in conducting the departmental inquiry any prejudice was caused to the employee. Hence, the submission made by the learned advocate for the employee on this score fails.

10. So far the submission regarding the legality of proceeding with the departmental inquiry against the employee during the pendency of the criminal case is concerned, elaborating the submission, the learned advocate for the Bank submitted that criminal proceedings and departmental proceedings have different purposes and objects and in criminal proceedings, the criminal court has to examine as to whether the accused has committed any offence and deserves conviction and where as the

departmental proceedings are undertaken for the purpose of enforcement of discipline and for finding out the measures of indiscipline and as to whether the conduct of the delinquent is such which may merit punishment as provided in the relevant service Rules and as such there is no bar to conduct the criminal case and the departmental inquiry simultaneously. In support of such contention, the learned advocate for the Bank placed reliance on the decision reported in (Capt. M. Paul Authority V/s. Bharat Coal Mines Ltd.) AIR 1999 S.C.—1416 and (Kendriya Vidyalaya Sangathan V/s. T. Srinivas) 2004 SCC (L & S)—1011.

In the decision reported in AIR 1999 S.C.—1416 (supra) the Hon'ble Apex Court have held that :

“Simultaneous continuance of departmental enquiry with criminal proceedings – Law on this point restated that scope of these two proceedings is different and they can be continued independently.

Departmental proceedings and proceeding in a criminal case can proceed simultaneously as there is no bar in their being conducted, simultaneously but separately.

If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of criminal case, can be resumed and proceeded with, so as to conclude them at an early date. The purpose is that if the employee is found not guilty, his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.”

In the decision reported in 2004 SSC (L & S)—1011 (supra), the Hon'ble Apex Court have held that :

“Departmental Enquiry – Criminal Proceeding—Initiation of departmental enquiry during pendency of criminal trial involving identical facts and charges. Stay or disciplinary proceedings by CAT and High Court till the conclusion of criminal trial – Legality

Restating the law in this regard, held, stay of departmental proceedings in such a case cannot be a matter of course – Advisability, desirability or propriety, as the case may be, in regard to a departmental enquiry has to be determined taking into consideration all facts and circumstances of the case.

“Both the Tribunal and the High Court decided the case on an erroneous legal principle without taking into consideration the facts and circumstances of this case and proceeded as if the stay of disciplinary

proceedings is a must in every case, where there is a criminal trial on the very same charges. Hence, the impugned order of the Tribunal and the High Court are set aside".

From the principles enunciated by the Hon'ble Apex Court in the above mentioned two decisions, it is clear that there is no absolute bar to proceed with the departmental enquiry even if during the pendency of a criminal case. Judging the present case at hand with the touch stone of the principles laid down by the Hon'ble Apex Court, it is found that there was no progress in the criminal case registered against the employee, at the time of the initiation or during the pendency of the departmental enquiry. So on the ground of pendency of a criminal case, it cannot be held that the initiation of the departmental enquiry against the employee and the orders passed there in are illegal or not permissible in law.

11. The third contention raised was that three other officers of the Bank had been suspended alongwith the present employee but those officers were immediately reinstated and no action was taken against them and the present employee was made the scapegoat for the alleged misappropriation. After going through the documents of the departmental enquiry, it is found that the charges leveled against the present employee have been sufficiently proved. The present employee cannot be said to be at par with the three other officers, who have been suspended alongwith him. It is also found from the record that the Bank has punished them suitably for their action.

12. Moreover, it has been held by the Hon'ble Apex Court as reported in 2003 S.C.C. (I. & S) – 468 (Chairman and Managing Director, UCO Bank V/s. P. C. Kakkar), on which reliance has been placed by the learned advocate for the bank that :

"Misconduct – penalty/punishment – scope of judicial review of – Awarding of a lesser punishment to a co-delinquent, held, not a good ground for judicial interference with the quantum of punishment, – More so, when the allegations in the two cases were contextually different".

In this case at hand, as it is found that the charges proved against the employee are quite serious in nature and that the employee misappropriated a large sum of money. The allegations against the other three officers were not of the same nature. The plea of the employee that he was made the scapegoat and that he should have been dealt with the punishment like that of the three other officers cannot be upheld.

13. The most vital question remains for consideration is the perversity of the findings in the departmental enquiry and as to whether the punishment imposed upon the employee (workman) is shockingly disproportionate to the charges leveled against him.

14. In this regard, it was contended by the learned advocate for the employee that in answer to the final show-cause notice issued by the Disciplinary Authority, the employee submitted his show-cause within the specified date but while passing the final order, the disciplinary authority mentioned in his order that the management did not receive any reply to the final show-cause notice which was quite wrong and not correct and it is clear from the same that while passing the final order, the disciplinary authority did not consider the reply of the employee to the show-cause notice and so also the past record of the employee and on that grounds, the order of the dismissal is required to be quashed.

15. In reply, it was submitted by the learned advocate for the Bank that inadvertently the disciplinary authority had mentioned about the non-receipt of the reply to the final show-cause filed by the employee in the order of dismissal passed by him but actually the reply given by the employee was considered and the employee was also heard personally and as such, it cannot be said that the reply of the employee was not taken into consideration.

16. Perused the record and found that after submission of the final show-cause, the employee was heard in person by the disciplinary authority. In his reply to the final show-cause, the employee had not mentioned any new ground than the stands already taken by him during the enquiry and so also in the defence brief submitted by him before the Inquiry Officer. The employee was also heard in person by the Appellate Authority before passing the final order, dismissing the appeal preferred by the employee. It appears that inadvertently it has mentioned in the order of the disciplinary authority about the non-receipt of the reply of the employee to the final show-cause. Hence, I find no force in the contention raised by the learned advocate for the employee.

17. It was also contended by the learned advocate for the employee that the punishment of dismissal imposed against the employee is harsh and shockingly disproportionate to the charge leveled against the employee. In support of his contention, the learned advocate for the employee placed reliance on the decision reported in AIR 1958 SC : 300, AIR 1960 Punjab : 8, AIR 1962 Tripura : 15, AIR 1961 Allahabad : 45 and AIR 1968 SC : 158.

18. It is necessary to mention here that the learned advocate for the employee did not submit the citations for perusal of this Tribunal, though he has mentioned about the same only in the notes of argument. However, I went through the decisions of the Hon'ble Apex Court as reported in AIR 1958 SC : 300 (Khemchand V/s. Union of India) and AIR 1968 SC : 158 (State of UP V/s. C. S. Sharma), which were available with the Tribunal and with respect, I am of the view that the said decisions of the Hon'ble Apex Court are not applicable to the present case in hand as the

facts and circumstances of the cases referred in the above decisions are quite different from the facts and circumstances of the present case at hand.

19. The learned advocate for the Bank in reply submitted that the punishment imposed against the employee is quite justified and the serious charges levelled against the employee regarding commission of fraud, theft, criminal misappropriation and forgery were well proved against him in the departmental enquiry and the findings are based on the evidence adduced in the enquiry and the Bank has lost confidence in the employee and as the findings in the departmental enquiry are based on the evidence of record, the Tribunal is not authorized to interfere in the punishment imposed against the employee. In support of such contentions, the learned advocate for the Bank placed reliance on the decision reported in AIR 1960 SC : 191 (Management of Balipara Tea Estate V/s. Its workmen), AIR 1963 SC:172 (State of AP V/s. S. Shriramrao), AIR 1974 SC : 555 (EP Royappa V/s. Tamil Nadu), AIR 1988 SC : 37 (Christian Medical College Hospital Employees' Union V/s. CMC, Vellore Association), 2005 SCC (L & S) : 298 (Bharat Forge V/s. Uttam Manohar), 1999 LIC : 918 : SC (AEP Council V/s. A K. Chopra) 2006 SCC (L & S) : 265 (TNCS Corporation Ltd. V/s. K. Mirabai), 2005 SCC (L & S) : 407 (Divisional Controller V/s. A. T. Mane) and some others.

20. In the decision reported in AIR 1960 SC : 191 (Supra) Hon'ble Apex Court have held that :

“Dismissal – Interference by Industrial Tribunal and Courts – Dismissal in pursuance of domestic enquiry not open to interference unless it is perverse. In case of dismissal or termination the jurisdiction of an industrial tribunal is limited to see whether the impugned order has been passed mala fide with improper nature or is the result of a desire to victimize the workman or arising out of unfair labour practice. If a proper charge has been framed and enquiry made the findings or conclusions can only be interfered if they are perverse and are not supported by any evidence or if the trial has been conducted unfairly in violation of the principles of natural justice. It is not open to an industrial tribunal to sit in appeal over the conclusions recorded in the domestic enquiry”.

21. The Hon'ble Apex Court reported in the decision AIR 1974 SC : 555 (Supra) have held that :

“Evidence Act, 1872 – Ss. 101, 102 and 103 – Mala fides – Onus of proof. The burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility”.

22. The Hon'ble Apex Court reported in the decision SCC 2006 (L & S) : 265 (Supra) have held that :

“Departmental/ Domestic enquiry – Penalty Punishment – Scope of judicial review of – Sympathy or generosity, if a ground – Where the employee was found guilty of misappropriating the employer Corporation's fund, held, the primary factor to be taken into consideration was the loss of confidence and not the amount of money misappropriated. Hence, notwithstanding that there was no such allegation against that employee in the past, held, the punishment of dismissal from service imposed by the employer could not be interfered with by the Court on ground of sympathy or generosity – In view of the position of trust occupied by the delinquent, further held the matter required to be dealt with rather firmly and not leniently”.

23. The Hon'ble Apex Court reported in the decision SCC : 2005 (L & S) : 407 (Supra) have held that :

“Penalty/Punishment – Misappropriation of funds by delinquent employee – Punishment that may be awarded – Factors to be considered – Loss of confidence as the primary factor and not the amount of money misappropriated – Scope of judicial review – Sympathy or generosity as a factor – Impermissibility – Held, when an employee is found guilty of misappropriating a Corporation's funds, there is nothing wrong in the corporation losing confidence or faith in such an employee and awarding punishment of dismissal – In such cases there is no place for generosity or misplaced sympathy on the part of the judicial forums and interfering therefor with the quantum of punishment – Industrial Disputes Act, 1947 – S. 11-A”.

24. At this juncture, I also think it proper to mention about the decision of the Hon'ble Apex Court reported in 2010 (2) – SCC (L & S) : 102 (Administrator, Union Territory of Dadra and Nagar Haveli V/s. Gulabhai M. Lad). The Hon'ble Apex Court have held that :

“C. Penalty/Punishment – Quantum of – Relevant factors – Held, are gravity of misconduct proved against an employee, his past conduct, nature of his duties, his position in an organization, previous penalty, if any imposed on him, kind of discipline required to be maintained in an organization, etc. D. Departmental enquiry – Penalty/Punishment – Judicial review – Scope – Reiterated, Court or Tribunal cannot interfere with discretion exercised by competent authority in imposition of punishment, unless the same suffers from illegality or procedural irregularity of material nature or punishment is shockingly disproportionate”.

25. Keeping in view the principle enunciated by the Hon'ble Apex Court in the above decisions, now, it is to be considered as to whether the punishment imposed against the employee is harsh and shockingly disproportionate and there is any scope to interfere with the punishment. The employee as a Bank Officer held the position of trust, where honesty and integrity are in built requirements of functioning of the Bank. In Bank business, absolute devotion, diligence, integrity and honesty need to be preserved by every Bank employee and in particular the Bank Officer, so that the confidence of the public/depositors is not impaired. Therefore, when a Bank Officer commits misconduct for his personal ends and against the interest of the Bank and depositors, he must be dealt with iron hands and not leniently. Peruse the chargesheet, show-cause submitted by the employee, oral and documentary evidence and other connected papers. In this case, it is clear from the evidence on record which are adduced by the Bank during the course of the departmental enquiry and other relevant documents and materials that the grave charges levelled against the employee regarding criminal misappropriation, forgery and theft have been proved in the departmental enquiry. From the materials on record, I have no hesitation in holding that on the facts found and conclusions recorded in the inquiry report, the punishment of dismissal without notice passed against the employee cannot be said to be not commensurate with the misconduct proved against him.

26. The plea of the employee for taking lenient view has no force. The scope of judicial review is very limited. Sympathy or generosity as a factor is impermissible. Loss of confidence is the primary factor. In the instant case, the employee was found guilty of misappropriating the Bank's funds. There was nothing wrong in the Bank losing confidence and faith in such an employee and awarding punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy on the part of the Tribunal and interfering, therefore, with the quantum of punishment awarded by the disciplinary and appellate authority. Hence, I find no merit in the reference and it is ordered :

ORDER

The action of the management of State Bank of India, Region-II, Nagpur (MS) in awarding punishment of dismissal from service w.e.f. 29-3-2003 to Shri Mukesh Duryodhan Gajbhiye, Assistant (Cash/Account), State Bank of India, Kamptee Branch is proper and justified and the workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2010

का. आ. 2509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्सरण में, केन्द्रीय सरकार नेहरू यवतः

केन्द्र संगठन के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 84/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2010 को प्राप्त हुआ था ।

[सं. एल-42011/30/2006-आई आर (डी.यू.) |
जोहन तोपना, अवर सचिव

New Delhi, the 13th September, 2010

S.O. 2509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 84/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Nehru Yuva Kendra Sangathan and their workman, which was received by the Central Government on 13-9-2010.

[No. L-42011/30/2006-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX,
DELHI

L.D. No. 84/2006

Shri Beni Ram,
S/o Shri Budh Ram and 8 others,
16/296, Trilokpuri,
New Delhi-110091

15

The Executive Director,
Nehru Yuva Kendra Sangathan,
Department of Youth Affairs and Sports,
Ministry of Human Resources,
East Plaza, I.G. Indore Stadium,
New Delhi-110001 . . . Management

AWARD

National Re-construction Corps, (known as N.R. Scheme) for Youth was launched during the year 1999 all over the country, but actual functioning of the scheme started in May and June, 2001. The scheme provided an opportunity to the youth to participate in the process of nation buildings. Working for and with the community, understanding problems of real life and utilizing skills and knowledge, in solving those problems was to enrich their experience and prepare them for challenges in later life. The scheme was designed to achieve twin objectives of

man making and nation building. The work of the scheme was to be area and locality specific. During pilot stage the scheme was implemented as a central sector scheme having Steering Committee and the Executive Committee at National level, Advisory Committee at State level and Advisory Committee and Executive Committee at the District Level. Department of Youth Affairs and Sports, Government of India was responsible for overall implementation of the scheme, while Nehru Yuva Kendra Sangathan, (hereinafter referred to as the management), an autonomous organization under administrative control of Department of Youth Affairs and Sports, was to work as implementing agency. District Youth Coordinator was to establish linkages with agencies like National Service Scheme, District Rural Development Agency, District Urban Development Agency and the various non-governmental organizations, working in the related areas. He was to identify projects suitable for implementation and work out modalities of implementation and all other requisite details in consultation with the beneficiary departments, finalize the budget, and ensure availability of funds and deployment of volunteers.

2. A Project Officer was to assist District Youth Coordinator in implementation of the scheme. Project Officer was to be deployed by the management for each district where the scheme was to be implemented, on a lump-sum honorarium of Rs. 4000 PM on contract basis for one year extendable for one more year. He was to be paid a maxima of Rs. 1000 PM as travel allowance. His appointment was to terminate automatically on expiry of contract period. Volunteers were to be deployed by the management on specific projects, relating to community and national development. Volunteers were to be recruited for one year only, maintaining transparency in the method of their recruitment.

3. The scheme, being a central sector scheme, was to be funded by the Central Government. An amount of Rs. 6500 PM per selected district, was to be provided by the management for establishment expenses. Volunteers were to be given honorarium of Rs. 1000 PM, inclusive of travel expenses. Two weeks training and orientation programme was to be organized for the volunteers, to enable them to acquire a deep understanding of the objectives and issues involved in national development and to impart specific managerial and technical skills. Therefore, it were the youth coordinators, project officers and volunteers, who were to be deployed on projects sponsored by the beneficiary departments at Central and the State level.

4. The scheme was sanctioned for 80 districts during the year 2001-02, but was operationalised in 76 districts, except the four districts of West Bengal. It was extended to another 40 districts during the year 2002-03. The scheme was on pilot phase upto 31st of March, 2003. In order to implement the scheme effectively, following committees

were functioning to advise and guide the field functionaries :

1. National Steering Committee headed by the Hon'ble Union Minister of Youth Affairs and Sports, Government of India.
2. National Executive Committee headed by the Secretary, Ministry of Youth Affairs and Sports, Government of India.
3. Board of Governors of the management headed by Hon'ble Union Minister for Youth Affairs and Sports, Government of India.
4. State Level Advisory Committee headed by the Hon'ble Minister for Youth Affairs and Sports of the concerned State Government.
5. District Level Advisory Committee headed by Chairman, Zila Parishad of the concerned District.
6. District Level Executive Committee headed by DMC DC of the concerned District.

5. During November/December, 2001 and January 2002 internal evaluation was carried to have feed back on strength and weakness on implementation of the scheme. Workshops were organized in September/October, 2001 in different places. A meeting was conducted at the Head-Quarters of the management in October, 2002 for selected officers, who were having knowledge of management information system. One day workshop was organized in six places for the project officers, selected volunteer youth coordinators and original coordinators. A survey proforma was developed for collecting required information through personal contract programme. Outcome of evaluation was submitted to the Ministry and decision on continuation of the scheme pends consideration.

6. To run establishments at district level, Group 'A' employees were engaged. Services of Shri Beni Ram were engaged on 1-8-2000 and terminated on 23rd of August, 2004, Shri Bhagwan Singh were engaged on 10-2-2001 and terminated on 1st of September, 2004. Shri Bhagwan Singh expired on 9-7-2005 and dispute is being pursued by his widow, namely, Smt. Arti Devi. Service of Shri Ashok Kumar Morya were engaged on 1-6-2001 and terminated on 23rd of August, 2004. Shri Dheeraj Kumar were engaged on 27-6-2001 and terminated on 23rd of August, 2004. Shri Chander Pal were engaged on 1-8-2001 and terminated on 23rd of August, 2004. In the same manner Shri Amit Dahiya was engaged on 1-2-2003 and his services were terminated on 23rd of August, 2004, Shri Vikas Kumar was engaged on 1-2-2003, whose services were terminated on 23rd of August, 2004. Shri Bijender Pal was engaged on 1-2-2003 and his services were disengaged on 23rd of August, 2004, while Shri Inder Singh Mehra was engaged on 15-12-1999 and his services were terminated on 1st of May, 2004. All of them were engaged as daily wages, whose engagements

were approved vide order dated 6-6-2001. They were paid minimum wages as per actual days of their work. Their engagements were extended from time to time. When their services were disengaged with effect from the dates mentioned above, they raised demand for reinstatement in service. When their request for reinstatement was not conceded to, they filed writ petitions before High Court of Delhi which were disposed of vide common order dated 25-7-2005 and workmen were advised to raise an industrial dispute before the authorities under the Industrial Disputes Act, 1947 (in short the Act). Ultimately they raised a dispute before the Conciliation Officer. When conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. 42011/30/2006-JR (DU), New Delhi, dated 17-10-2006, with the following terms :

“Whether the action of the management of Nehru Yuva Kendra Sangathan, New Delhi in terminating the services of Shri Beni Ram S/o Shri Budh Ram, New Delhi and other 8 workmen, as per Annexure, from the dates mentioned against each of them, is legal and justified ? If not, to what relief the workmen are entitled to and from which date ?”

7. In the claim statement, workmen plead that they were appointed by the management as group ‘D’ staff on daily wage basis, due to huge work load. Competent authority approved their engagements vide office order dated 16-4-2002. Though they were retained/absorbed against regular posts w.e.f. February, 2003, yet their services were terminated on different dates, in May, August and September, 2004, without following due process of law. They served a legal notice as well as reminder on the management but no response was received. They filed writ petitions before High Court of Delhi, contents of which petitions may be read as part of their claim statement (copy of writ petitions were not filed, which fact makes their request meaningless). Writ petitions were disposed of with an advise to them to approach the authorities under the Act. They present that on failure of conciliation proceedings, present reference was made for adjudication of their grievances. They claim reinstatement in service with continuity, full back wages and all consequential benefits.

8. Claim was resisted by the management pleading that workmen were never appointed as regular employees, following due process of law. The management was given responsibility to implement a nation-wide project, known as N.R. Scheme. While implementing that project, it was observed at various level that work load had increased and a necessity was felt to deploy daily wagers, so that regular work may not hamper. Accordingly, the claimants were appointed as peons on daily wage basis, besides others. They were paid for actual working days. A daily wager cannot have legitimate expectation of regularization of his services. Since they were appointed against the scheme, 240 days continuous service in a calendar year would not

give them a right for regularization. Before termination of their services, they were given one month notice. Since there was no right in their favour against a substantive post, they cannot claim reinstatement or regularization of their service. Their claim is liable to be dismissed.

9. Claimants S/Shri Ashok Kumar (WW1), Smt. Arti Devi (WW2) widow of Shri Bhagwan Singh, Beni Ram (WW3), Dheeraj Kumar (WW4), Chander Pal (WW5), Amit Dagar (WW6), Vikas Kumar (WW7), Bijender Pal (WW8) and Inder Singh Mehra (WW9) have tendered their affidavits as evidence. They were cross examined at length on behalf of the management Shri R. P. S. Thakur was examined by the management. No other witness was examined by the management.

10. Arguments were heard at the bar. Shri Mohd. Farrukh, authorised representative, advanced arguments on behalf of the claimants. Shri Rana Ranjit Singh, authorised representative, advanced arguments on behalf of the management. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows :

11. Shri Ashok Kumar Morya swears in his affidavit Ex. WW 1/A that he was appointed by the management as group ‘D’ staff on 01-06-2001 on daily wage basis. Despite the fact that he was absorbed against a regular post and allowed D.A. w.e.f. February, 2003, his services were terminated without following due process of law. After his illegal termination, he served a legal notice as well as reminder on the management. Termination of his services is illegal, unjustified, unfair labour practice and against the principles of natural justice. During the course of his cross examination, he projects that he came to know about vacancies with the management, through a known person. He approached the Executive Director, who appointed him in the job there and then, vide office order Ex. WW 1/9. He was posted in Head Office and never posted either in the office or at the residence of the Minister. He admitted that the documents Ex. MW1/W7 to Ex. MW 1/20, Ex. MW 1/W22, Ex. MW 1/W24, Ex. MW 1/W26, Ex. MW 1/W28, Ex. MW 1/W30, Ex. MW 1/W33, Ex. MW 1/W34 and Ex. MW 1/W36 depict that his salary used to vary month-wise. He denied that his salary used to vary in a month since his actual working days used to differ.

12. Smt. Arti Devi, widow of late Shri Bhagwan Singh swears in his affidavit Ex. WW2/A that her husband joined the management w.e.f. 10-2-2001 on daily wage basis. Despite the fact that her husband was absorbed against a regular post and allowed DA w.e.f. February, 2003, his services were terminated without following due process of law. After his illegal termination, he served a legal notice as well as reminder on the management. His termination is illegal, unjustified, unfair labour practice and against the principles of natural justice. During the course of her cross

examination she projects that her husband never told her any thing as to what procedure was followed in his recruitment, post on which he worked and quantum of his wages. She unfolds that in 2004 her husband told that he was shunted out of the job.

13. Shri Beni Ram swears in his affidavit Ex. WW3/A that he was appointed by the management as group 'D' staff on 01-08-2000 on daily wage basis. Despite the fact that he was absorbed against a regular post and allowed D.A. w.e.f. February, 2003, his services were terminated without following due process of law. After his illegal termination, he served a legal notice as well as reminder on the management. During the course of his cross examination he admits that his recruitment was de hors the rules. He admits that he was engaged against N.R. Scheme and his services came to an end on closure of that scheme. In June 2004, he was told that after a spell of two months there would be no job for him.

14. Shri Dheeraj Kumar swears in his affidavit Ex. WW4/A that he joined as peon with the management on 27-06-2001. Despite the fact that he was absorbed against a regular post and allowed D.A. w.e.f. February, 2003, his services were terminated without following due process of law. He also concedes, during course of his cross examination that his appointment was contrary to the recruitment process. He presents that he worked with the management w.e.f. 27-6-2001 till 23-8-2004. He does not dispute genuineness of documents Ex. MW1/W5 to Ex. MW1/W9, Ex. MW1/W10 to Ex. MW1/W17, Ex. MW1/W20, Ex. MW1/W22, Ex. MW1/W25, Ex. MW1/W27, Ex. MW1/W29, Ex. MW1/W31, Ex. MW1/W33, Ex. MW1/W35 and Ex. MW1/W37. He further admits that in June, 2004, he was told that after a spell of two months there will be no job for him.

15. Shri Chander Pal swears in his affidavit Ex. WW5/A that he was appointed by the management as group 'D' staff on 1-8-2001 on daily wage basis. Despite the fact that he was absorbed against a regular post and allowed D.A. w.e.f. February, 2003, his services were terminated without following due process of law. During the course of his cross examination he admits that Shri R. S. Bangar, Executive Director, appointed him on the post of peon, without following normal rules of recruitment. He denied that his engagement was against N.R. Scheme and his services came to an end on closure of that scheme.

16. Shri Amit Dagar swears in his affidavit Ex. WW6/A that he was engaged by the management on 1-2-2003 as a peon. Despite the fact that he was absorbed against a regular post and allowed D.A. w.e.f. January, 2003, his services were terminated without following due process of law. After his illegal termination, he served a legal notice as well as reminder on the management. During the course of his cross examination, he also admits that his appointment by Shri R. S. Bangar, Executive Director was

not in consonance with rules. He worked with the management w.e.f. 1-2-2003 till 23-8-2004. He denied that he was engaged against N.R. Scheme and his services came to an end on closure of that scheme.

17. Shri Vikas Kumar swears in his affidavit Ex. WW7/A that he was appointed by the management as group 'D' staff on 1-2-2003 on daily wage basis. Despite the fact that he was absorbed against a regular post and allowed DA w.e.f. February, 2003, his services were terminated without following due process of law. During the course of his cross examination, he also concedes that his recruitment was in violation of recruitment rules. He worked with the management w.e.f. 1-2-2003 till 23-8-2004. He denied that he was engaged against N. R. Scheme and his services were to come to an end on closure of that scheme.

18. Shri Vijender Pal swears in his affidavit Ex. WW8/A that he was appointed by the management on 1-2-2003 as a peon on daily wage basis. Despite the fact that he was absorbed against a regular post and allowed DA w.e.f. February, 2003, his services were terminated without following due process of law. During the course of his cross examination he projects that his appointment was not in consonance with the rules. He worked with the management from 1-2-2003 till 23-8-2004. Documents Ex. MW1/W27, Ex. MW1/W29, Ex. MW1/W31, Ex. MW1/W34, Ex. MW1/W35 and Ex. MW1/W38 are not disputed by him. He denied that he was engaged against N. R. Scheme and his services were to come to an end on closure of that scheme.

19. Shri Inder Singh Mehra swears in his affidavit Ex. WW9/A that he was appointed by the management as driver on 15-12-1999. Despite the fact that he was absorbed against a regular post and allowed DA w.e.f. February, 2003, his services were terminated without following due process of law. During the course of his cross-examination he concedes that his engagement not in accordance with the rules. He worked with the management w.e.f. 26-10-1999 till 1-5-2004. He does not dispute documents Ex. MW1/W1 to Ex. MW1/W22, Ex. MW1/W24, Ex. MW1/W26, Ex. MW1/W28 and Ex. MW1/W32.

20. Shri R. P. S. Thakur, Deputy Director, deposed that names of the workmen, posts and dates of appointment place of work and dates of termination of their services have been correctly mentioned in para 1 of the claim statement. However, he question their assertions that they rendered continuous service from the dates of their appointment till the dates of termination of their services. During the course of his cross-examination, he projects that no appointment letters were issued to the workmen. He asserts that N. R. Scheme started on 30-6-1999 and lasted till 31-3-2003. He disputes that the scheme lasted in March, 2003. He concedes that in order Ex. MW1/W39 no where highlights that the claimants were engaged in N. R. Scheme. Their wages were paid on monthly basis for actual

working days. He could not unfold the number of employees engaged in N. R. Scheme. He dispels that claimants were engaged against permanent jobs. According to him, the claimants used to fetch files from one section to the other, which job still exists with the management. He admitted that Inder Singh Mehra was working with the management as Driver. No notice or pay in lieu thereof was given to the workmen at the time of disengaging their services. Retrenchment compensation was not paid to them.

21. When facts projected by the claimants and Shri Thakur were appreciated, it came to light that scheme Ex. MW1/1 was implemented by the management. Many employees were appointed under that scheme. Ex. MW1/W39 highlights that the claimants were appointed as daily wagers in the management, since requests were there from various Zonal Directors for deployment of group 'D' staff on daily wage basis. The letter makes it clear that group 'D' employees, appointed on the roll of the management, were in excess to sanctioned posts. However, keeping in view exigency and heavy work load, requests made by Zonal Directors were conceded and claimants, besides others, were appointed in N. R. Scheme. Ex. MW1/W39 was issued in respect of engagement of the claimants. Claimants want to use this document in part, to establish their appointment and discard rest of its contents. Claimants cannot be permitted to have benefit of that note and discard the rest, which goes against them. On the strength of this document it is emerging that service of the claimants were engaged against the scheme referred above. They were appointed as group 'D' employee on daily wage basis. Ex. MW1/1 is the other letter on the strength of which the claimants and others were made known that the competent authority has approved their engagement on daily wage basis, with effect from the dates of their reporting at respective places. This letter projects that the claimants were to join at various Zonal Offices under the scheme referred above. Claimants were to draw daily wages at prevalent rates in concerned district for unskilled casual labours. Therefore, this documents makes it clear that the claimants and others were appointed by the management against the scheme referred above.

22. Ex. MW1/2 unfolds that Zonal Offices requested the management to provide more staff for completion of administrative work in time. Bio-data of seven persons were received for appointment on daily wage basis and out of those seven candidates, six persons were appointed as daily wager unskilled labour under the scheme. Ex. MW1/W1 to Ex. MW1/W36 are the documents on the strength of which wages in favour of the claimants were released from March 2001 till May 2004. These documents make it clear that recipients of wages were posted at various places. These documents go to establish that recipients of wages were posted at various Zonal Offices under the scheme. Ex. MW1/7 to Ex. MW1/21 also highlight the very proposition. Documents Ex. MW1/11 to Ex. MW/21 bear

signatures of the claimants and others as recipients of wages. Therefore, the claimant cannot dispute that he was engaged by the management against the scheme as daily wager and was paid for actual days of work.

23. Can claimants dispute that they were not aware that their appointment was made against the scheme? A hue and cry was raised by the claimants that no such fact was ever brought to their notice. They presents that they were appointed against regular posts. Their contentions stand belied when document Ex. MW1/W7 is perused. As noted above, steps were taken to engage claimant and others on requests received from Zonal Directors of Madhya Pradesh, Rajasthan, Himachal Pradesh and Bihar for deployment of group 'D' on daily wage basis. Zonal Director, U.P. made request for deployment of Computer Operator. It was unfolded in Ex. MW1/W7 that group 'D' employees on the roll of the management were in excess to sanctioned posts, yet keeping in view office exigencies and heavy work load of the scheme, requests for deployment made by various Zonal Directors were sent to the competent authority for approval. Ex. MW1/W1 makes it clear that approval was granted by the competent authority to appoint claimants on daily wage basis, in the office of respective Zonal Directors. Ashok Kumar Morya and Chander Dutt were deputed in the headquarters, while Govind Prashad Shukla was sent to the office of Zonal Director, Bhopal (M.P.), Shiv Kumar Dhore was sent to office of the Regional Coordinator NYK, Gwalior (M.P.), Shri Uday Singh was sent to the office of R.C. NYK, Tikamgarh (M.P.) and Shri Anand Pande was sent to the office of Zonal Director NYKS Patna (Bihar). Therefore, this document makes it clear that on requests received from various Zonal Directors, group 'D' employees were recruited and deputed to carry out work in the establishment of various Zonal Directors, under the scheme. Therefore, it was well within the knowledge of the claimants that they were appointed by the management against the scheme, referred above. When the claimants accepted offer of appointment, made on the strength of Ex. MW1/W1, they are estopped from agitating that they were not appointed against the scheme.

24. Shri R. P. S. Thakur had proved letter dated 16-11-2007 as Ex. MW1/22. When this letter was perused it came to light that on 16-11-2007, the President has conveyed abolition of Regional Offices and Regional Coordinators were designated as Deputy Directors. 181 posts of peons have been abolished from 16-11-2007, unless they are occupied by regular appointees. In case a regular appointee is there that post would be deemed to have been abolished from the date when he superannuates or gets adjusted against any other regular posts or his services are terminated due to any other reason by the competent authority. Therefore, this document makes it clear that in November 2007, 181 posts of peons stands abolished and office of Regional Coordinators have also been abolished. This document highlights that at present Government of

India has no intention to continue the scheme referred above, which came to an end on 31-3-2003.

25. In the light of facts noticed above it would be considered as to whether disengagement of the claimants amounts to retrenchment. Retrenchment has been defined by clause (oo) of Section 2 of the Act, as follows :

“(o) “retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under the stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill-health;”

26. Termination of service of a workman as a result of non-renewal of contract of employment between the employer and the workman on its expiry or termination of contract of employment in terms of stipulation contained in the contract of employment does not fall within the ambit of retrenchment. Sub-clause (bb) was inserted in clause (oo) of Section 2 of the Act., with effect from 18-8-1984. When a contract of employment between the employer and the workman provides mode and manner of termination of service, such termination of service has been excluded from the definition of the retrenchment. When contract of employment between the employer and the employee does not specify the period of employment for which workman was employed or when there is no stipulation in such contract providing mode and manner of termination of service, provisions of sub-cause (bb) of clause (oo) of Section 2 of the Act will have no application. Termination of service of casual workman on daily wages will not fall within the ambit of sub-clause (bb) of clause (oo) of Section 2 of the Act, since “contract of employment” is referable to the contract other than engagement of casual worker on daily wages. “Non-renewal of contract of employment” pre-supposes an existing contract of employment which is not renewed. Even in respect of a daily wager a contract of employment may exist, such contract being from day to day. The position, however, would be different when such a contract is in reality camouflage for a mere sustaining

nature of agreement, but the mode of daily wager is adopted so as to avoid the rigors of the Act. Sub-clause (bb) of clause (oo) of Section 2 of the Act does not contemplate to cover a contract such as of a daily wager and is rather intended to cover mere general class of contracts where a regular contract of employment is entered into and the termination of the service is because of non renewal of the contract. Sub-clause (bb) is in the nature of an exception to clause (oo) of Section 2 of the Act and has to be construed strictly so as to secure a just and fair deal to the workmen while adjudicating termination of service of a workman for non-renewal of the contract of employment on expiry of the time stipulated in the contract of employment.

27. In S. M. Nilajakar [2003 (4) S.C.C. 27] the Apex Court laid down conditions to be satisfied when termination of service of a workman, employment in a scheme or project may not amount to retrenchment. Those conditions are extracted thus :

1. that the workman was employed in a project or scheme of temporary duration;
2. the employment was on a contract, and not as a daily wager simpliciter, which provided inter-alia that the employment shall come to an end on the expiry of the scheme or project;
3. the employment came to an end simultaneously with the termination of the scheme or project and consistently with the terms of the contract, and
4. the workman ought to have been apprised or made aware of the aforesaid terms by the employer at the commencement of employment.

28. Engagement of a workmen as daily wagers does not by itself amount to putting him on notice that he was being engaged in a scheme or project which was to last only for a particular length of time or upto occurrence of some event and therefore he was well aware that his employment was short lived. Contract of employment entered into by the workman with his employer would result in a notice to the workman on the date of the commencement of the employment itself that his employment was short lived and as per terms of the contract the same was liable to be terminated on the expiry of the contract and the scheme or project coming to an end. The workman may not therefore, complain that by the act of the employer his employment was coming to an abrupt termination. To exclude termination of a sheme or project employee from the definition of retrenchment it is for the employer to prove the aforesaid ingredients so as to attract the applicability of clause (bb) aforesaid. In the case in hand, the claimants were engaged as a daily wager against the scheme of the management. However, it was not provided in order of his appointment that the scheme was to last for a period of two years and their appointment would come to an end as and when the scheme terminated. It was not brought to their

notice that their employment was co-terminus with N. R. Scheme.

29. There is other facet of the coin. Shri Thakur projects that the project/scheme in which claimants were employed came to an end on 31-3-2003. Claimants highlights that their services were dispensed with on different dates in May, August and September 2004. These facts were not disputed by the management. Therefore, it is obvious that the services of the claimants have not come to an end, on termination of the scheme, in which they were employed. The management has not been able to establish applicability of sub-section (bb) of clause (oo) of Section 2 of the Act in present controversy. Consequently, case is not covered within the exceptions provided in the definition of the retrenchment. Termination of services of the claimants amount to retrenchment within the meaning of clause (oo) of Section 2 of the Act.

30. When termination of services of the claimants amounts to retrenchment within the meaning of clause (oo) of Section 2 of the Act, the management is under a bounden duty to follow provisions of Section 25-F of the Act, in case claimants have rendered continuous service for a period of one year. "Continuous Service" has been defined by Section 25-B of the Act. Under Sub-section (1) of the said section, "continuous service for a period" may comprise of two period viz. (i) uninterrupted service, and (ii) interrupted service on account of (a) sickness, (b) authorized leave, (c) an accident, (d) a strike which is not legal, (e) a lock-out, and (f) a cessation of work that is not due to any fault on the part of the workman, shall be included in the "continuous service." Sub-section (2) of the said section introduces a fiction to the effect that even if a workman is not in "continuous service" within the meaning of clause (1) for a period of one year or six months, he shall be deemed to in continuous service for that period under an employer if he has actually worked for the days specified in clauses (a) and (b) thereof. In Vijay Kumar Majoo (1968 Lab. I.C. 1180) it was held that one year's period contemplated by Sub-section (2) furnished a unit of measure and if during that unit of measure the period of service actually rendered by the workman is 240 days, then he can be considered to have rendered one year's continuous service for the purpose of the section. The idea is that if within a unit period of one year a person had put in at least 240 days of service, then he must get the benefit conferred by the Act. Consequently, an enquiry has to be made to find out whether the workman has actually worked for not less than 240 days during a period of 12 calendar months immediately preceding the retrenchment.

31. At the cost of repetition, it is said that claimants were retrenched on the dates mentioned in their claim and engaged by the management on dates mentioned in the claim statement. Management no where claims that their service were interrupted for any reasons other than those detailed in sub-section (1) of Section 25-B of the Act. The

management projects that the Beni Ram rendered continuous services from 1-8-2000 to 23-8-2004, Bhagwan Singh from 10-2-2001 to 1-9-2004, Ashok Kumar Morya from 1-6-2001 to 26-8-2004, Dheeraj Kumar from 27-6-2001 to 23-8-2004, Chander Paul from 1-8-2001 to 23-8-2004, Amit Dagar from 1-2-2003 to 23-8-2004, Vikas Kumar from 1-2-2003 to 23-8-2004, Bijender Pal from 1-2-2003 to 23-8-2004 and Inder Singh Mehra from 15-12-1999 to 1-5-2004. They were also entitled to authorised leave in that calendar year. Therefore, it is emerging over the record that they have rendered continuous service of 240 days and more in each calendar year. Consequently it is emerging over the record that the claimants have rendered continuous service of one year in each calendar year. The claimants could satisfy that service rendered by them answers the definition of continuous service as contained in Section 25-B of the Act.

32. The claimants had rendered continuous service of a year, as contemplated by Section 25-B of the Act. Workmen projected that their services were dispensed with on 23-8-2004, 1-9-2004, 26-8-2004, 23-8-2004, 23-8-2004, 23-8-2004, 23-8-2004 and 1-5-2004 respectively. They presented that retrenchment compensation was not paid to them, which fact was not dispelled by the management. The management was under an obligation to pay them compensation for retrenchment at the time of retrenchment. Payment of retrenchment compensation is a condition precedent to a valid order of retrenchment. Precedents in Bombay Union of Journalists case (1964 (I) LLJ 351), Adaishwar Laal (1970 Lab. I.C. 936) and B. M. Gupta (1979 (I) LLJ 68) announce that subsequent payment of compensation cannot validate an invalid order of retrenchment. As retrenchment compensation was not paid to workmen, consequently action of the management falls within the mischief of Section 25-F of the Act.

33. Services of the workmen were retrenched without payment of retrenchment compensation. It is well settled that in a case of wrongful retrenchment, dismissal or discharge, normal rule is to award reinstatement in service. However in Uma Devi [2006 (4) SCC I] the Apex Court considered the proposition as to whether the persons who got employment, without following of a regular procedure or even from the back door or on daily wages can be ordered to be made permanent in their posts, to prevent regular recruitment to the posts concerned. Catena of decisions over the subject were considered and the court declined the submissions of the workmen to be made permanent on the posts which were held by them in temporary of ad-hoc capacity for a fairly long spell. The Court ruled thus :

"With respect, why should the State be allowed to depart from the normal rule and indulge in temporary employment in permanent posts ? This Court, in our view, is bound to insist on the State making regular and proper recruitments, and is bound not to

encourage or shut its eyes to the persistent transgression of the rules of regular recruitment. The direction to make permanent—the distinction between regularization and making permanent, was not emphasized here—can only encourage the State, the modal employer, to flout its own rules and would confer undue benefits on a few at the cost of many waiting to compete. With respect the directions made in *Piara Singh* [1992 (4) SCC 118] is to some extent inconsistent with the conclusion in para 45 of the said judgment therein. With great respect, it appears to us that the last of the directions clearly runs counter to the constitutional scheme of employment recognized in the earlier part of the decision. Really, it cannot be said that this decision has laid down the law that all ad-hoc, temporary or casual employees engaged without following a regular recruitment procedure should be made permanent".

34. In P. Chandra Shekhara Rao and others [2006 (7) SCC 488] the Apex Court referred Uma Devi's Case (Supra) with approval. It also relied the decision in a Uma Rani [2004 (7) SCC 112] and ruled that no regularization is permissible in exercise of statutory powers conferred in Article 162 of the Constitution, if the appointments have been made in contravention of the statutory rules. In Somveer Singh [2006 (5) SCC 493] the Apex Court ruled that appointment made without following due procedure cannot be regularized. In Indian Drugs and Pharmaceuticals Ltd. [2007 (1) SCC 408] the Apex Court reiterated the law and announced that the rules of recruitment cannot be relaxed and court can not direct regularisation of temporary employees de hors the rules, nor can it direct continuation of service of a temporary employee (whether called a casual, adhoc or daily rated employee) or payment of regular salaries to them.

35. In *Uma Devi* (supra) it was laid that when a person enters a temporary employment or get engagement as contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequence of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed for the post when an appointment to the post could be made only by following a proper procedure or selection in any concerned cases, in consultation with the public service commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State held out any promise while engaging these persons either to continue them where they are or make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek relief of being made permanent in the post. In view of those precedent neither continuance nor regularisation of services of the

claimants can be ordered, since it would amount to a door entry into Government job.

36. Whether workmen could be regularized, in the case of Gurmail Singh and Dharkar Lal as a precedent for a proposition arose before the Apex Court in *Uma Devi* (*supra*), wherein the Apex Court ruled that regularization of an employee similarly situated, may by the State in future shall not be treated as a precedent if it was done in pursuance to judicial direction, either of the Administrative Tribunal or of the High Court and in some cases by the Court. It would be expedient to reproduce the law as it is which is extracted thus :

"Though, there is a case that the State has made regularization in the past of similarly situated employees, the fact remains that such regularization were done only pursuant to judicial directions, either of the Administrative Tribunal or of the High Court and in some cases by this Court. Moreover, the invocation of the doctrine of legitimate expectation cannot enable the employees to claim that they must be made permanent or they must be regularized in service though they had not been selected in terms of the rules for appointment. The fact that in certain cases the court had directed regularization of the employees involved in those cases cannot be made use of to found a claim based on legitimate expectation. The argument if accepted would run counter to the constitutional mandate. The argument in that behalf has, therefore, to be rejected."

It was then contended that the rights of the employees thus appointed, under Articles 14 and 16 of the Constitution, are violated. It is stated that the State has treated the employees unfairly by employing them on less than minimum wages and extracting work from them for a pretty long period in comparison with those directly recruited who are getting more wages or salaries for doing similar work. The employees before us were engaged on daily wages in the department concerned on a wage basis which was made known to them. There is no case that the wage agreed upon was not being paid. Those who are working on daily wages formed a class by themselves, they cannot claim that they are discriminated as against those who have been regularly recruited on the basis of the relevant rules. No right can be founded on an employment on daily wages to claim that such employees should be placed on a par with the regularly recruited candidates and made permanent in employment, even assuming that the principle could be invoked for fixing minimum wages for equal work. There is no finding in this

in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment should be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequal as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules. The arguments based on Articles 14 and 16 of the Constitution are, therefore, overruled."

37. Here in case, workmen were engaged in violation of recruitment rules. No advertisement was made nor a test was conducted when they were engaged by the management. Reservation policy was also not followed. Hence, their reinstatement would amount to perpetuate a wrong engagement in service. Where a case falls in any of the exception to general rule, the industrial adjudicator has discretion to award reasonable and adequate compensation, in lieu of re-instatement. Section 11A of the Act vests the industrial adjudicator with discretionary jurisdiction to give "such other relief to the workman" in lieu of discharge or re-assessment as the circumstances of the case may require, save for some valid reasons it considers that reinstatement in or without conditions will not be fair or proper.

38. Since retrenchment of workmen is held to be wrongful, this Tribunal has to award compensation to the citizens in lieu of their reinstatement. No definite yardstick for measuring the quantum of compensation is available. In S. S. Letty [1957 (II) LLJ 696] the Apex Court indicated some relevant factors which an adjudicator has to take into account in computing compensation in lieu of reinstatement, in the following words :

"The Industrial Tribunal would have to take into account the terms and conditions of employment, the tenure of service, the possibility of termination of the employment at the instance of either party, the possibility of retrenchment by the employer or resignation or retirement by the workman and even of the employer himself ceasing to exist or of the workman being awarded various benefits including reinstatement under the terms of future awards by Industrial Tribunal in the event of industrial disputes arising between the parties in future In computing the money value of the benefits of reinstatement, the industrial adjudicator would also have to take into account the present value of what his salary, benefits etc. would be till he attained the age of superannuation

and the value of such benefits would have to be computed as from the date when such reinstatement was ordered under the terms of the award.

Having regard to the considerations detailed above, it is impossible to compute the money value of this benefit of reinstatement awarded to the appellant with mathematical exactitude and the best that any tribunal or court would do under the circumstances would be to make as correct as estimate as is possible bearing, of course in mind all the relevant factors pro and con".

39. A Divisional Bench of the Patna High Court in B. Choudhary Vs. Presiding Officer, Labour Court, Jamshedpur (1983) Lab. I.C. 1755 (1758) deduced certain guidelines which have to be borne in mind in determining the quantum of compensation viz. (i) the back wages receivable; (ii) compensation for deprivation of the job with future prospect and obtainability of alternative employment; (iii) employee's age; (iv) Length of service in the establishment; (v) capacity of the employer to pay and the nature of the employer's business; (vi) gainful employment in mitigation of damages; and (viii) circumstances leading to the disengagement and the past conduct. These factors are only illustrative and not exhaustive. In addition to the amount of compensation, it is also within the jurisdiction of the Tribunal to award interest on the amount determined as compensation. Furthermore, the rate of such interest is also in the discretion of the Tribunal. Reference can be made to Tabesh Process. Shivakashi (1989 Lab. I.C. 1887).

40. In Assam Oil Co. Ltd. [1960 (I) LLJ 587] the Apex Court took into account countervailing facts that the employer had paid certain sums to the workmen and her own earning in the alternative employment and ordered that "it would be fair and just to direct the appellant a substantial sum as compensation to her". In Utkal Machinery Ltd. [1966 (I) LLJ 398] the amount of compensation equivalent to two years salary of the employee awarded by the Industrial Tribunal was reduced by the Supreme Court to an amount equivalent to one year salary of the employee in view of the fact that she had been in service with the employer only for 5 months and also took into consideration the unusual manner of her appointment at the instance of the Chief Minister of the State. In A. K. Roy [1970 (I) LLJ 228] compensation equivalent to two years salary last drawn by the workmen was held to be fair and proper to meet the ends of justice. In Anil Kumar Chakraborty [1962 (II) LLJ 483] the Court converted the award of reinstatement into compensation of a sum of Rs. 50,000 as just and fair compensation in full satisfaction of all his claims for wrongful dismissal from service. In O. P. Bhandari [1986 (II) LLJ 509] the Apex Court observed that it was a fit case for grant of compensation in view of reinstatement. The Court awarded compensation equivalent to 3.33 years salary as reasonable. In M. K. Aggarwal (1988 Lab. I.C. 380), the Apex Court though

confirmed the order of reinstatement yet restricted the back salary to 50% of what would otherwise be payable to the employee. In Yashveer Singh (1993 Lab. I.C. 44) the court directed payment of Rs. 75,000 in view of reinstatement with back wages. In Naval Kishor [1984 (II) LLJ 473] the Apex Court observed that in view of the special circumstances of the case adequate compensation would be in the interest of the appellant. A sum of Rs. 2 lac was awarded as compensation in lieu of reinstatement. In Sant Raj [1985 (II) LLJ 19] a sum of Rs. 2 lac was awarded as compensation in lieu of reinstatement in Chandu Lal (1985 Lab. I.C. 1225) a compensation of Rs. 2 lac by way of back wages in lieu of reinstatement was awarded. In Ras Bihari (1988 Lab. I.C. 107) a compensation of Rs. 65,000 was granted in lieu of reinstatement, since the employee was gainfully employed elsewhere. In V. V. Rao (1991 Lab. I.C. 1650) a compensation of Rs. 2.50 lac was awarded in lieu of reinstatement.

41. In view of above propositions, case of the workmen are to be considered. Beni Ram served the management from 1-8-2000 to 23-8-2004, Bhagwan Singh from 10-2-2001 to 1-9-2004, Ashok Kumar Morya from 1-6-2001 to 26-8-2004, Dheeraj Kumar from 27-6-2001 to 23-8-2004, Chander Paul from 1-8-2001 to 23-8-2004, Amit Dagar from 1-2-2003 to 23-8-2004, Vikas Kumar from 1-2-2003 to 23-8-2004, Bijender Pal from 1-2-2003 to 23-8-2004 and Inder Singh Mehra served from 15-12-1999 to 1-5-2004. They were daily wager employees, which employment does not confer a right on the post held. Taking into account all these aspects, besides the fact that retrenchment compensation was not paid to the workmen, I am of the view that an amount of Rs. 30,000 each would be appropriate compensation for Beni Ram and Inder Singh Mehra, a sum of Rs. 25,000 each be appropriate compensation for Bhagwan Singh, Ashok Kumar Morya, Dhiraj Kumar and Chander Pal, while a sum of Rs. 15,000 each would be justified amount of compensation for Amit Dagar, Vikash Kumar and Bijender Pal. Amount of compensation would be paid by the management within a period of one month from the date when award comes into operation. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 23-07-2010

Dr. R. K. YADAV, Presiding Officer.

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2510.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एस. सी. सी. एल. के प्रबंधत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 157/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-22013/1/2010-आई आर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2510.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 157/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 14-9-2010.

[No. L-22013/1/2010-IR (C-II)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 18th day of August, 2010

Industrial Dispute L. C. No. 157/2006

BETWEEN

Sri Senigarapu Venkataswamy,
S/o Rajam,
C/o Smt. A. Sarojana and
K. Vasudeva Reddy,
Flat No. G-7,
Rajeswarai Gayatri Sadan,
Opp : Badruka Girls Jr. College,
Kachiguda,
Hyderabad

.... Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Projects Area,
Srirampur, Adilabad District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
SRP-I Incline, Srirampur Area,
Srirampur, Adilabad District Respondents

APPEARANCES:

For the Petitioner : M/s. A. Sarojana, and
K. Vasudeva Reddy, Advocate

For the Respondent : M/s. P. A. V. V. S. Sarma and
Vijaya Laxmi Panguluri, Advocates

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 was filed by Sri Senigarapu Venkataswamy an ex. employee of M/s. Singareni Collieries Company Ltd., in light of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others challenging the order of discharge/dismissal/retrenchment/termination dated 19-11-2007 as illegal and arbitrary and to quash it and to reinstate him in the service with all consequential benefits.

2. Senigarapu Venkataswamy has stated in the claim petition that he was appointed as badli filler in the year 1988 and further promoted as coal filler in 1995. A charge sheet dated 6-3-1997 was issued to him alleging therein that frequently remained absent during the year 1996 which amounted to misconduct under Company's Standing Order No. 25.25. On the receipt of the same Petitioner submitted his explanation explaining the reason for his absence from duty during the year 1996. Unfortunately, without considering the merit of the submission an enquiry was conducted, during course of enquiry no proper opportunity was given to the Petitioner and Enquiry Officer conducted lopsided enquiry holding charges against the Petitioner to be proved and submitted report on the basis of the lopsided evidence, the Petitioner was dismissed from service vide office order dated 19-11-97 on basis of lopsided enquiry report. The Petitioner during enquiry pleaded that on account of ill-health and other family problems he could not attend to his duties. He further pleaded that in future he will attend to his duty without any absence.

3. He challenged the enquiry proceeding in para 3(a) to 3(n) of claim petition which is not being mentioned in this order because during course of the hearing of this petition, the Petitioner himself did not challenge the enquiry proceeding.

4. He further stated that he is the sole bread winner of his family, which consists of old aged parents, wife and three children. As a result of his dismissal from service whole family is left out without any livelihood. He further stated that assuming without admitting that the enquiry correct and proper the punishment of dismissal from service is too harsh, excessive and disproportionate to the charges levelled against him. He has further stated that he has not been gainfully employed elsewhere after dismissal, as such, he has requested this tribunal to set aside the dismissal order dated 19-11-97 and reinstate him in the service.

5. The Respondent management has filed counter statement challenging the maintainability of this petition under Sec. 2A (2). The management has accepted that Petitioner was appointed as badli filler on 31-12-88 and a charge sheet was served on him on 6-3-97 under company's Standing Order No. 25.25 for his habitual absence from

duty without sufficient cause during the year 1996 as under :

"25.25 : Habitual late attendance or habitual absence from duty without sufficient cause"

6. The Petitioner has submitted his explanation which was not found to be satisfactory and enquiry was ordered in which Petitioner fully participated. Petitioner was given full, fair and reasonable opportunity to defend himself. The enquiry was conducted duly complying with the principles of natural justice. The charges has been proved in the enquiry. After receipt of the enquiry report a show cause notice was given to the Petitioner. Petitioner submitted his explanation against the enquiry report. Since the charges levelled against the Petitioner was of the serious nature. Petitioner was dismissed from service. The contention of the Petitioner that dismissal order was arbitrary or violative of principles of natural justice was denied by the Respondent. The management contested the ground on which the enquiry proceeding was challenged by the Petitioner workman and has stated that during course of enquiry management has produced Sri C. Umapathy Reddy, Clerk Gr. I who was working in main way office where workman book their 'in musters' while undergoing in the mine and book out musters while coming out of the mine. The attendance register in form "C" registers. Though the workman pleaded that he did not attend the duty due to ill-health but no evidence was produced by the Petitioner. If the Petitioner was ill, he should have reported in company's hospital and if he was suffering from complicated disease he could have been referred for expert medical investigations, but nothing was done in the case of the Petitioner.

7. The Petitioner has worked only 50 days in 1996, in 1997 also he put in only 16 musters, in 1995 he put in 83 musters, in 1994-134 musters, in 1993 193 musters and in 1992-147 musters. This shows that Petitioner is habitual absentee. The management has passed proper order in the case of the Petitioner. He does not deserve any sympathy or leniency in the matter of punishment. Petition is devoid of merit and deserves to be dismissed.

8. Parties were directed to produce evidence. Petitioner has not filed any document or material whereas the Respondent management has filed proceeding book and the material placed before the Enquiry Officer during enquiry proceeding. The enquiry report, charge sheet and final order of the Disciplinary Authority.

9. It is to be mentioned here that the Petitioner has challenged domestic enquiry proceeding through his claims statement but on 29-4-2009. Petitioner's counsel moved a memo stating therein that he does not want to challenge the domestic enquiry proceeding and let be decided on the material available on the record before this tribunal. On the basis of the memo filed by the Petitioner the domestic

enquiry was held to be legal and valid and the case was posted for argument under Sec. 11A of the Industrial Disputes Act, 1947.

10. I have heard Learned Counsel for the workman and of the management and I have also gone through the claim statement, counter statement and documents produced by the management and arguments advanced by the counsels for the parties. Both the parties have filed their written arguments as well which is being considered.

11. It has been argued by the Learned Counsel for the Petitioner that though the Petitioner workman has not challenged the manner of conducting domestic enquiry proceeding he is at liberty to challenge the finding of the Enquiry Officer under Sec. 11A of the Industrial Disputes Act, 1947, if the finding of the Enquiry Officer is arbitrary and utterly perverse. Against this argument of the Learned Counsel for the workman, management's counsel has argued that the jurisdiction of the Industrial Tribunal cannot be equated with the Appellate jurisdiction and the Industrial Tribunal cannot interfere with the finding of the Enquiry Officer unless it is arbitrary or utterly perverse. Learned Counsel for the Respondent management has relied on case law reported in 1999(81) FLR 516 (SC) in the matter of State of Karnataka and Others Vs. H. Naga Raj and in 1999(83) FLR 226 SCC in the matter of U.P. State Road Transport Corporation and Others vs. Masai Ram and others. He has further argued that once domestic tribunal based on evidence came to a particular conclusion normally it is not open to the Appellate Tribunal and the courts to substitute their subjective opinion, he has relied on the case law reported in the matter of Divisional Controller, KSRTC Vs. A. T. Mane reported in 2005(3) SCC page 254 SC. He has further argued that the Industrial Tribunal cannot sit as Appellate Authority over the domestic enquiry as held by the Hon'ble Supreme Court reported in 2007(7) SCC 206 Bongaigaon Refinery and Pertochemicals Ltd., and Others Vs. Girish Chandra Sarma. He has further argued that once this tribunal has come to a conclusion that domestic enquiry is valid it cannot reappreciate the evidence and come to a different conclusion and has relied on 2009(3) CLR 334 (A.P.) of A.P. High Court in the matter of A.P. Paper Mills Ltd., and N. Srinivasa Rao and 2008(2) ALD 832 in the matter of Baker Ali Vs. Regional Manager, APSRTC, Nizamabad.

12. I have considered these arguments of the Learned Counsels for the parties. On the basis of the above argument this tribunal has to consider the following points :

- (I) Whether the finding arrived at by the Enquiry Officer is arbitrary and utterly perverse as argued by the Learned Counsel for the Petitioner?
- (II) Whether this tribunal had jurisdiction to substitute any punishment in place of one

which has been imposed by the management, in particular in the event when workman himself has not challenged the legality and validity of the enquiry proceeding?

- (III) Whether the punishment imposed by the management is disproportionate and shocking to the conscience of a judicious person.
- (IV) Whether workman is entitled to any relief if so, to what?

13. **Point No. (I) :** To decide whether the finding of the Enquiry Officer's arbitrary or utterly perverse or not have gone through the proceeding book of the domestic enquiry proceedings, wherein the management is examined S/Sri P. Stanley Jones, K. Suryanarayanan and C. Umapathy Reddy, who have stated that Petitioner workman remained absent on the dates mentioned in the charge sheet. The workman Sri S. Venkata Swamy a filler was also examined before the Enquiry Officer who admitted the contents of the charge sheet and stated that it is correct that he remained absent on the dates mentioned in the charge sheet without any leave or sufficient cause. However, the workman has stated that he has reported sick during 19-5-96 to 21-5-96 for 3 days, 6-6-96 to 2-7-96 for 11 days, 5-7-96 to 13-8-96 for 40 days, 4-9-96 to 28-9-96 for 25 days and 2-11-96 to 29-11-96 for 28 days and stated that now he is feeling well and he could perform his duty regularly. He has not been cross-examined. He has further stated that he is guilty of charge levelled against him. Cross-examination was done from the Petitioner regarding the date on which he has reported sick in the company's hospital. This material aspect has not been considered by the Enquiry Officer while giving his finding regarding the proof of charge against the workman concerned. Since the Petitioner workman was not cross-examined by the Presenting Officer regarding the date of his absence from reporting sick in the company's hospital for 123 days from 19-5-96 to 29-11-96, it cannot be said that the finding of the Enquiry Officer is neither arbitrary nor utterly perverse. Since Enquiry Officer has not applied his mind to the unchallenged statement of the Petitioner that he reported sick in company's hospital from 19-5-96 to 29-11-96. The finding is perverse and point No. (I) is decided accordingly.

14. **Point Nos. (II) and (III) :** Learned Counsel for the Respondent has argued that this tribunal cannot sit on the appeal on the over all finding of the Enquiry Officer and hence, once the domestic enquiry was held to be legal and valid this tribunal has got no jurisdiction to entertain appeal regarding punishment under Sec. 11A of the Industrial Disputes Act, 1947. He has placed reliance on a number of case laws cited supra. But from the material available before this tribunal this tribunal is of the considered view that the Enquiry Officer's finding is based on evidence and the statement given by workman before the Enquiry Officer which remained unchallenged.

by the Presenting Officer, the punishment imposed on Petitioner on the basis of the perverse finding of the Enquiry Officer is not sustainable in the eye of law. Not only that in the present matter the Petitioner workman has been keeping ill-health he reported sick in company's hospital during 19-5-96 to 21-5-96, 6-6-96 to 2-7-96, 5-7-96 to 13-8-96, 4-9-96 to 28-9-96 and 2-11-96 to 29-11-96. Thus, the absence of workman for those periods cannot be said to be without reasonable cause and sufficient reason. Since the charge against the Petitioner was that he remained habitually absent from duty without sufficient cause, the evidence shows that the Petitioner's absence was for reasonable cause and sufficient cause. He being ill he was treated in company's hospital, his absence cannot be said to be without sufficient cause or reasonable cause. He was under continuous treatment in company's hospital as such, it cannot be said that the workman was absent without sufficient cause, this material aspect has not been considered by the Enquiry Officer and the Disciplinary Authority has also not considered this material aspect of the case that Petitioner of this case was under company's hospital's treatment from 19-5-96 to 29-11-96 as such, the finding given by the Enquiry Officer that charges against the Petitioner were found to be proved are not based on evidence, it is perverse and Disciplinary Authority basing his decision on the basis of perverse finding of the Enquiry Officer has also committed gross violation of the principles of natural justice and the order passed by Disciplinary Authority is arbitrary and illegal. Since Petitioner workman of this case was absent due to ill-health which has remained uncontested, his absence cannot be said to be without sufficient reason and punishment imposed on him is excessive which shocks to the conscience of a judicious person. Point Nos. (II) and (III) are decided accordingly.

15. **Point No. (IV) :** From the material available before this tribunal it is amply proved that the punishment imposed in the matter of present Petitioner is shockingly disproportionate because the Petitioner has stated before the Enquiry Officer that he remained ill and he was under company's hospital's treatment for a total of 123 days during 1996 imposition of punishment of dismissal is excessive because the absence was neither wilful nor wanton. It was for the reason beyond the control of the Petitioner workman he being sick he was not in a position to discharge his duties. He was under company's hospital's treatment, in that event a lighter punishment could have been appropriate and sufficient punishment in the matter of present Petitioner, dismissal is not appropriate punishment in this case. In the matter of the Petitioner reversion to lower post would have been proper punishment and dismissal order is fit to be quashed. Inspite of dismissing the Petitioner from service he should have been reverted to a lower sage and that could have been the appropriate punishment in the case of the Petitioner. Hence, the order of dismissal is deserves to be quashed. Petitioner

is ordered to be reinstated to a lower grade and lower stage pay scale without back wages because present Petitioner has approached this tribunal after lapse of 9 years. It has been argued by the Learned Counsel for the Respondent that Petitioner has not been able to show the reason why he filed this claim petition so late before this tribunal and this Petitioner is liable to be dismissed on the sole ground of delay and latches. Against this argument of the Learned Counsel for the Respondent, Learned Counsel for the Petitioner has argued that under Sec. 2A (2) of the Industrial Disputes Act, 1947 there is no period of limitation prescribed by the legislature and in case this tribunal comes to a conclusion that the petition has been filed by the Petitioner after much delay, this tribunal can order for non-payment of back wages. But this petition under Sec. 2A (2) cannot be dismissed on the ground of delay and latches.

16. I have considered this argument that Legislature has not prescribed any period of limitation to file a petition under Sec. 2A (2) as such, this tribunal cannot fix any period of limitation which the Legislature has not fixed in its own wisdom, the petition cannot be rejected on the ground of delay and latches. However, after the reinstatement the Petitioner will not be entitled for any back wages because he filed the petition after much delay. Point No. IV is decided accordingly.

17. From the above discussion and conclusion this tribunal is of the view that the order of dismissal is shockingly disproportionate in the present case and deserves to be quashed and hence it is being quashed. The Respondent is directed to reinstate the Petitioner into services within two months from date of this award. Petitioner is being punished with reversion to the lowest post at initial scale of pay, he will not be entitled for any back wages after reinstatement.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 18th day of August, 2010.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for : Witnesses examined for the the Petitioner respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. जी. डब्ल्यू. बी. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 90/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-42012/85/2002-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Ground Water Board, North Central Region, and their workman, received by the Central Government on 14-9-2010.

[No. L-42012/85/2002-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/90/2003

Shri Mohd. Shakir Hasan, Presiding Officer

Shri Kamlesh Kumar Singh,
C/o Ashok Singh,
Estar Delta Transformer Ltd.,
91-A, Industrial Area,
Govindpura,
Bhopal

Workman/Union

Versus

The Regional Director,
Central Ground Water Board,
North Central Region,
Paryavas Bhavan,
IV Floor, Block No. 1, Arera Hills,
Bhopal (MP)

Management

AWARD

Passed on this 24th day of August, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-42012/85/2002-IR (C-II) dated 24-4-2003 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Central Ground Water Board, Bhopal in terminating the

services of Shri Kamlesh Kumar Singh S/o Babulal w.e.f. 31-12-1999 is legal and justified ? If not, to what relief the workman is entitled to ?”

2. The case of the workman, in short is that he was employed by the management on 18-5-99 on the post of waterman. He was terminated by the management on 31-12-1999 without giving any order in writing and without giving any retrenchment compensation under the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short I.D. Act, 1947). It is alleged that the junior to the workman have been retained in service contrary to the provision of Section 25-H of the I.D. Act, 1947. It is submitted that the reference be decided in favour of the workman.

3. The management/non-applicant appeared and contested the reference by filing Written statement in the case. The case of the management, interalia, is that the workman was engaged on daily wages for filling water in the cooler etc. on seasonal basis and had worked only 175 days and was disengaged w.e.f. 31-12-1999. The management had not violated the provision of the I.D. Act, 1947. It is stated that the department of the management is not an Industry within the definition of the I.D. Act. The workman is not entitled to any relief and the reference is fit to be answered in favour of the management

4. On the basis of the pleadings of both the parties the following issues are settled :

Whether the action of the management in terminating the service of the workman w.e.f. 31-12-99 is justified and legal ?

To what relief the workman is entitled ?

5. **Issue No. I :** It is not out of place to say that the statement of claim of the workman is not signed either by the workman or by his counsel and therefore there is no claim before the Tribunal. However even if such unsigned pleading is treated as pleading, then, on the basis of the pleadings and evidence of both the parties, it is admitted that the workman was engaged on daily wages. It is also admitted that he was engaged on 18-5-99 and was disengaged on 31-12-99. Admittedly he had not worked more than 240 days and had also not worked for twelve calendar months. The provision of Section 25-B Sub-clause (2)(a)(ii) of the I.D. Act runs as follows :

“(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer :

(i) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is

to be made, has actually worked under the employer for not less than

(ii) two hundred and forty days, in any other case."

Thus it is clear that his service is not said to be in continuous service for a period of one year during a period of twelve calendar months preceding the date with reference under the provision of Section 25-B of the I.D. Act, 1947. It is evident that his service was less than one year and therefore the provision of Section 25-F of the I.D. Act is not applicable and he is not to be treated as a retrenched employee. Accordingly this issue is decided against the workman.

6. It is a settled principle that the Tribunal cannot travel beyond the reference. The reference is that the termination w.e.f. 31-12-99 is legal or not? It appears that even holidays and Sundays are included in calculation of the period actually worked, then the workman had not worked 240 days till 31-12-99. The learned counsel for the workman has relied on the decision reported in AIR 1981 S.C. 1253 Mohanlal, Appellant versus the Management of M/s Bharat Electronics Ltd., Respondent. The said ruling is not applicable as the workman was not in employment for 240 days under the provision of Section 25-B of the I.D. Act. It appears that the workman has tried to lead evidence that he worked till Feb., 2000 but the same is beyond the pleading and also beyond the scope of reference.

7. **Issue No. II :** It is clear that the provision of Section 25-F of the I.D. Act, 1947 is not applicable and therefore the workman is not entitled to any relief. The reference is accordingly answered.

8. In the result, the award is passed without any costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 226/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-23012/36/2004-आई आर (सीएम-II)]
डी.एस.एस. श्रीपिंदास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 226 2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Bhakra Dam Nangal Township, and their workman, which was received by the Central Government on 14-9-2010.

[No. L-23012/36/2004-IR (CM-II)]
D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A. K. Rastogi, Presiding Officer

Case I.D. No. 226/2005

Instituted on : 20-7-2005

BETWEEN

Shri Ravi Kant S/o Shri Taraddu : Applicant
Ram, C/o Qr. No. 354-G, Nangal
Township, Distt. Ropar
(Punjab)

Vs.

The Chief Engineer, : Respondent
Bhakra Dam Nangal Township,
Distt. Ropar (Punjab).

APPEARANCES:

For the Workman : Shri R.K. Singh Parmar,
A.R.

For the Management : Shri R.C. Sharda, Law Officer

AWARD

Passed on 24th August, 2010

Government of India vide Notification No. L-23012 36/2004 IR (CM-II) dated 11-07-2005, by exercising its powers under Section 10, Sub-section (1), Clause (d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act), referred the following industrial dispute for adjudication of this Tribunal :

"Whether the action of management of BBMB represented through Chief Engineer in terminating the services of Shri Ravi Kant S/o Sh. Taraddu Ram, w.e.f. 31-10-1984 is legal and justified? If not, to what relief workman is entitled to and from which date?"

The claimant has raised an industrial dispute by stating that he was employed as unskilled/skilled Mazdoor and has worked in Nangal Workshop Division and Township Division of the management and his paid days are mentioned in the list attached (however, no lists is attached). It was further stated that he has put in 276 days service preceding the date of his termination within 12 calendar months as per detail sheet Annexure I. (Annexure I is also not on the record). According to the claimant no seniority list is maintained by the management and juniors to him were retained in service and also fresh hands were recruited while he was not called for the employment and thus there is a violation of Sections 25G and 25H of the Act. The claim statement has a mention of representation Annexures-2 and 3 of the workman (Annexures-2 and 3, also not on record). He alleged Chief Engineer Bhakra Dam to be the employer and alleged the violation of Section 25F (a)(b) and 25N of the Act. He has claimed his reinstatement with full back wages and all other attendant benefits.

The claim was contested by the management. It is important to note that in the claim petition the date of employment as well as that of retrenchment is conspicuously missing. But it has been stated in the written statement that the petitioner has alleged his termination with effect from 31-10-1984, while the dispute has been raised in 2003 without any justification for this long minute delay of about 20 years in raising the dispute, his claim is barred and is liable to be dismissed. According to the written statement, the Executive Engineer and not the Chief Engineer, Bhakra Dam is the employer of the daily rated unskilled labour. The details of working days given in Annexure I of the claim statement (which is not on record) were alleged to be wrong and incorrect. According to the details given in the written statement, the workman worked from August 1993 to August 1994 for 321 days in B.C. and Township Division and Workshop Division Nangal. It has further been stated that the workman did not work in September and October 1984, hence, the question of his retrenchment with effect from 31-10-1984 does not arise. He did not complete 240 days in the preceding 12 months in any one Division of the management and therefore, no notice or notice pay was payable to him. It is further stated that seniority of casual labour is maintained at Divisional Level and he is deployed strictly as per seniority and field requirement. Whenever the need of labour is reduced or the work is completed, the casual labour is disengaged strictly conforming to the seniority and according to the policy instructions and provisions of the Act. The workman never approached the management for deployment after his disengagement in August 1984. No person junior to workman is working in the Workshop Division. However, Workman was deployed of and on after August 1984 also depending upon the work requirement and lastly he was deployed in December 1993 for 22 days. Written statement has a mention of CWP No. 11270 of 1993 filed by the

workman and others before the Punjab and Haryana High Court with the prayer inter-alia not to terminate/retrench the petitioner/workman. In the said Writ Petition, the Hon'ble High Court passed an order on 21-01-1998 and in compliance of that order a speaking order regarding the workman was issued, which has not been challenged by the workman in any court of law. According to the written statement the compliance of Section 25F and 25N of the Act was not required in the case and the reference is not maintainable.

In a rejoinder the workman has stated that the defect is attributable to management, Chief Engineer, Bhakra Dam is the employer under the certified Standing Orders and the order of the Hon'ble High Court does not pertain to his termination date of October 1984.

In support of his case the workman himself and on behalf of management A.K. Alhuwalia, S.D.O. Workshop Division, Nangal filed their affidavits. From the pleadings of the parties following issues arise for consideration

1. Whether the Chief Engineer, Bhakra Dam Nangal is the employer and the service of the workman was terminated by Chief Engineer, Bhakra Dam or Nangal Township on 31-10-1984?
2. Whether the services of the workman were terminated against the provisions of Sections 25G and 25H of the Act?
3. Whether there is a violation of Sections 25G and 25H of the act on the part of the management?
4. To what relief the workman is entitled to?

I have heard the AR of the workman and the law Officer of the management and perused the evidence on record. My findings on the various issues are as follows.

Issue No. 1 :

It was pleaded and submitted on behalf of the management that the Chief Engineer, Bhakra Nangal Township, the respondent in the case is not the employer of the workman. The Executive Engineer is the employer of the daily rated casual labour. Thus, according to the management, the claim suffers from the defect of joinder of parties. A.K. Alhuwalia, management witness in his affidavit has stated that in pursuance of instructions contained in the letter of Additional Secretary, BBMB, Chandigarh (Letter No. 30315-450/PD/468/87/887 dated 08-07-1988) the Chief Engineer Bhakra Nangal has appointed the concerned Divisional Head i.e. Executive Engineer, Bhakra Dam Organization (I.W.) as Officer-in-Charge under Rule 2(g)(ii) of the Act so as to enable them to exercise the powers of the employer under the Act for the daily rated workers.

The AR of the workman on the other hand has relied on the certified Standing Orders of the management, which in the Clause 2(b) defines employer. According to it

employer means Chief Engineer (Irrigation Wing) in-charge of the concerned project and according to clause 2(e) Chief Engineer means the Chief Engineer, Irrigation, BMB.

I am of the view that simply by appointing the Executive Engineer of Bhakra Dam as Officer in-charge so as to enable him to exercise all powers of the employer under the Act, the Chief Engineer does not cease to be the employer of the workman. His order appointing Executive Engineer as Officer-in-charge is simply a delegation of power of employer. I therefore, hold that respondent Chief Engineer, Bhakra Dam Nangal is the employer.

The next question is whether the services of the workman were terminated by the respondent on 31-10-1984? It is important to note that the workman in his claim statement or affidavit has nowhere given the date of his termination. During cross-examination he stated that he last worked in the Workshop Division up to October 1984, he had served for full month and he has not been given any termination order in writing, he was orally terminated. As it has been stated above, the workman has made a reference of list containing the details of his working days in his claim statement and affidavit also but the list has not been attached to the claim statement or the affidavit. The workman has not produced any evidence to show that he worked up to October 1984. The management in his written statement and also in the affidavit of his witness has stated that the workman did not work in September and October 1984. The management witness was not confronted on this point. I see no reason to disbelieve him. In this regard it is also important to note that management witness in his affidavit has stated that the workman was deployed of and on after August 1984 also depending upon the requirement and he was lastly deployed in December 1993 and the workman also has admitted in his affidavit his employment with the management from 01-08-1992 to 31-08-1993. It is, therefore, wrong to say that the services of the workman were terminated on 31-10-1984. I accordingly, hold that the services of the workman were not terminated by the respondent on 31-10-1984. Issue No. 1 is decided against the workman.

Issue No. 2 :

The workman has alleged that the termination of his services is against the provisions of Sections 25F and 25N of the Act. But both the provisions cannot be made applicable. Section 25F falls under Chapter 5A while Section 25N under Chapter 5B of the Act. Both Sections contain the condition precedent to retrenchment of workman but from Section 25L in Chapter 5B it is clear that the provisions of Section 25S do not apply to an establishment which is not a factory, mines or plantation because such an establishment is not an industry as defined by Section 25L. Hence, the provisions of Chapter 5B will not apply to a commercial establishment, even if it employs 100 or more workmen.

So the termination of the services of the workman cannot be assailed for want of three months' notice under Section 25N or the payment of wages in lieu of notice period.

Provisions of Section 25F could have been applicable in the case of workman if he had proved his termination on the alleged date i.e. 31-10-1984 and 240 days working with reference to that date in the twelve calendar months. The question of violation of sections 25F and 25N of the Act, therefore does not arise. Issue No. 2 is decided against the workman.

Issue No. 3 :

Since there is no termination on the alleged date, hence the violation of Sections 25G and 25H of the Act is also not involved. Moreover, it cannot be said that the workman was not given re-employment. As it has been stated above, the workman in his affidavit has admitted that during the period from 01-08-1992 to 31-08-1993 he was employed in Nangal Workshop Division of the respondent. No case of violation of Sections 25G and 25H of the Act is made out. Issue No. 3 is decided against the workman.

Issue No. 4 :

From the above going discussion it is clear that the services of the workman were not terminated by the respondent on 31-10-1984 and the workman is not entitled to any relief. Reference is answered accordingly, against the workman. Let two copies of the award be sent to Central Government after due compliance.

A.K. RASTOGI, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2513.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं सी.पी. डल्ल्यू.डी. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 69/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-42012/85/2003-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Public Works Department, and their workmen, which was received by the Central Government on 14-9-2010.

[No. L-42012/85/2003-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH

Present : Sri A. K. Rastogi, Presiding Officer

I.D. No. 69/2004

Instituted on 17-3-2005

The Zonal Secretary, Applicant
 All India CPWD (MRM) Karamchari
 Sangathan (Regd.), CPWD Store
 Building, Sector 7-B, Chandigarh.

Vs.

The Executive Engineer, Respondent
 Central Public works Department,
 Chandigarh, Central Electrical
 Division, Kendriya Sadan,
 Sector 9-A, Chandigarh.

APPEARANCE:

For the Workman : Shri Som Dutt Sharma, Adv.

For the Management : Shri G.C. Babbar, Advocate

AWARD

Passed on 17th August, 2010

Central Government vide Notification No. L-42012/85/2003 IR (CM-II) dated 25-02-2005, by exercising its powers under Section 10, Sub-section (1), Clause (d) and Sub-section (2A) of the Industrial Disputes Act, 1947 has referred the following Industrial dispute for adjudication of this Tribunal :

"Whether the action of management of CPWD, Chandigarh in not regularizing the services of Shri Sikander Kumar Rai, Electrical Khalasi w.e.f. 1-4-99 is legal and justified? If not, to what relief the concerned workman is entitled?"

In the reference the Executive Engineer, Central Public Works Department, Chandigarh, Central Electrical Division, Kendriya Sadan, Sector 9-A, Chandigarh and Zonal Secretary of All India CPWD (MRM) Karamchari Sangathan (Regd.), CPWD Store Building, Sector 7-B, Chandigarh (hereinafter referred as the Karamchari Sangathan) are the only parties. However, the claim statement has been presented by the Karamchari Sangathan and the concerned workman Sikander Kumar Rai as claimant Nos. 1 and 2 respectively.

According to the claim statement claimant No. 2 was employed by the management as a Khalasi through a contractor w.e.f. 1-4-1999 to 1-3-2004 and he is a member of the Karamchari Sangathan. Though he had been

engaged through a contractor, yet for all intent and purposes he was under the complete control of the management. The contract arrangement was clearly a formality and a devise to avoid the liabilities. There was relationship of employer and employee between the management and the claimant no. 2 and the later is entitled for the benefits and protection under the Act. His services were terminated on 01-03-2004 in utter violation of the provisions of the Act without any notice, notice pay and compensation etc. In terminating the services the principle of 'last come first go' was also not followed. In Civil Writ Petition No. 8741 of 1998 of the claimant no. 1, the Hon'ble High Court of Delhi gave certain directions following which the Central Advisory Contract Labour Court (hereinafter referred to as the court) made certain recommendations to the Central Government according to which job under consideration under the management were of perennial nature and must go on from day-to-day except that of Chowkidar and Incinerator Operator but the management never considered claimant no. 2 for regularization of his services. He was not paid equal to other regular employees doing the same job. He has completed more than 240 days in a year during the period of three years. The claimants have claimed the regularization of claimant no. 2 on the sanctioned vacant post of Khalasi and pay on the principle of equal pay for equal work.

The claim was contested by the management. It was denied that claimant no. 2 is a workman under the Act as he has not been engaged by the management nor was paid the wages by it. It was also said that claimant no. 1 is not a recognized union and claimant no. 2 not being an employee of the management cannot be a member of the claimant no. 1. It was denied that claimant no. 2 was working under the direct authority, control and supervision of the management. The claimant has not implemented the contractor without which the status of the claimant cannot be verified. His services were not terminated by the management and no notice was required and no notice pay or compensation was payable to him by the management. The appointments to the Government are to be made in accordance with the recruitment rules and the person employed through the contractor has no right for regularization. He cannot claim parity regarding pay with the regular employees. He is not entitled to any relief.

While the case was at the stage of evidence, an application was moved by Karamchari Sangathan through the counsel of the claimant for withdrawing the claim as the workman/claimant no. 2 is not interested in the case. In view of the said application, the reference is answered against the claimant. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं सी.पी. डब्ल्यू. डी. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 171/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-42012/94/2003-आई आर (सीएम-II)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 171/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Public Works Department, and their workmen, which was received by the Central Government on 14-9-2010.

[No. L-42012/94/2003-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A. K. Rastogi, Presiding Officer

I.D. No. 171/2004

Instituted on 17-3-2005

The Zonal Secretary, Applicant
All India CPWD (MRM) Karamchari
Sangathan (Regd.), CPWD Store
Building, Sector 7-B, Chandigarh.

Vs.

The Executive Engineer, Respondent
Central Public works Department,
Chandigarh Central Electrical
Division, Kendriya Sadan,
Sector 9-A, Chandigarh

APPEARANCE:

For the Workman : Shri Som Dutt Sharma, Adv.

For the Management : Shri G.C. Babbar, Advocate

AWARD

Passed on 17th August, 2010.

Central Government vide Notification No. L-42012/94/2003 IR (CM-II) dated 25-02-2005, by exercising its

powers under Section 10, Sub-section (1) Clause (d) and Sub-section (2A) of the Industrial Disputes Act, 1947 has referred the following Industrial dispute for adjudication of this Tribunal :

“Whether the action of management of CPWD, Chandigarh in not regularizing the services of Shri Sachin Kumar Talwar, Electrical Khalasi w.e.f. 1-1-2000 is legal and justified? If not, to what relief the concerned workman is entitled?”

In the reference the Executive Engineer, Central Public Works Department, Chandigarh, Central Electrical Division, Kendriya Sadan, Sector 9-A, Chandigarh and Zonal Secretary of All India CPWD (MRM) Karamchari Sangathan (Regd.), CPWD Store Building, Sector 7-B, Chandigarh (hereinafter referred as the Karamchari Sangathan) are the only parties. However, the claim statement has been presented by the Karamchari Sangathan and the concerned workman Sachin Kumar Talwar as claimant Nos. 1 and 2 respectively.

According to the claim statement claimant No. 2 was employed by the management as a Khalasi through a contractor w.e.f. 1-1-2000 to 1-4-2003 and he is a member of the Karamchari Sangathan. Though he had been engaged through a contractor, yet for all intent and purposes he was under the complete control of the management. The contract arrangement was clearly a formality and a devise to avoid the liabilities. There was relationship of employer and employee between the management and the claimant no. 2 and the later is entitled for the benefits and protection under the Act. His services were terminated on 01-03-2004 in utter violation of the provisions of the Act without any notice, notice pay and compensation etc. In terminating the services the principle of ‘last come first go’ was also not followed. In Civil Writ Petition No. 8741 of 1998 of the claimant no. 1, the Hon’ble High Court of Delhi gave certain directions following which the Central Advisory Contract Labour Court (hereinafter referred to as the court) made certain recommendations to the Central Government according to which job under consideration under the management were of perennial nature and must go on from day-to-day except that of Chowkidar and Incinerator Operator but the management never considered claimant no. 2 for regularization of his services. He was not paid equal to other regular employees doing the same job. He has completed more than 240 days in a year during the period of three years. The claimants have claimed the regularization of claimant no. 2 on the sanctioned vacant post of Khalasi and pay on the principle of equal pay for equal work.

The claim was contested by the management. It was denied that claimant no. 2 is a workman under the Act as he has not been engaged by the management nor was paid the wages by it. It was also said that claimant no. 1 is not

a recognized union and claimant No. 2 not being an employee of the management cannot be a member of the claimant No. 1. It was denied that claimant No. 2 was working under the direct authority, control and supervision of the management. The claimant has not implemented the contractor without which the status of the claimant cannot be verified. His services were not terminated by the management and no notice was required and no notice pay or compensation was payable to him by the management. The appointments to the Government jobs are to be made in accordance with the recruitment rules and the person employed through the contractor has no right for regularization. He cannot claim parity regarding pay with the regular employees. He is not entitled to any relief.

While the case was at the stage of evidence, an application was moved by Karamchari Sangathan through the counsel of the claimant for withdrawing the claim as the workman/claimant No. 2 is not interested in the case. In view of the said application, the reference is answered against the claimant. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 11/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-22011/36/2009-आई आर (सीएम-II)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2009) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Bright Security Services, Food Corporation of India, and their workman, which was received by the Central Government on 14-9-2010.

[No. L-22011/36/2009-IR (CM-II)]
D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL, TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A. K. Rastogi, Presiding Officer

I.D. No. 11/2009

Instituted on 22-10-2009

Shri Tara Singh S/o Shri Dalip Singh
Village Kamrewala, P.O. Jalalabad
(West), Tehsil Jalalabad, District
Ferozepur (Punjab)

.... Applicant

Vs.

1. The Area Manager,
Food Corporation of India,
District Office, Malwal Road,
Ferozepur City (Punjab).
2. Brig. Jaswant Singh Sandhu,
Bright Security Services,
38, Rani Ka Bag,
Amritsar (Punjab).
3. The General Manager,
Food Corporation of India,
Regional Office, Punjab Region,
Sector-31,
Chandigarh, (Punjab)

.... Respondents

APPEARANCES :

For the Workman : None

For the Management : Shri N.K. Zakhmi, Advocate

AWARD

Passed on 17th August, 2010.

Central Government vide Notification No. L-22011/36/2009-IR (CM-II) dated 30-09-2009, by exercising its powers under Section 10, Sub-section (1), Clause (d) and Sub-section (2A) of the Industrial Disputes Act, 1947 has referred the following Industrial dispute for adjudication to this Tribunal :

- (i) “Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham & bogus ?
- (ii) Whether the demand of Shri Tara Chand for reinstatement with full back wages & to treat him as regular employee of the FCI is legal and justified ?
- (iii) To what relief is the workman concerned entitled ?”

Notice of reference was sent to workman on 17-03-2010, 13-04-2010, 17-05-2010 and by Regd. post on 21-07-2010 but the workman neither appeared nor submitted claim statement. Respondent No. 2 Brig. Jaswant Singh Sandhu could not be served with the notice sent by post and he also remained absent. Appearance was put in however, on behalf of FCI Punjab respondent Nos. 3 and 4.

Since the claimant has no claim for raising the industrial dispute, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2516.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, जवाहर नवोदय विद्यालय के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 40/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-42012/113/2005-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2009) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Jawahar Navodaya Vidyalaya, and their workman, which was received by the Central Government on 14-9-2010.

[No. L-42012/113/2005-IR(CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case I.D. No. 40/2009

Shri Gora Singh S/o Shri Sarup Singh,
Village & PO Lakarwali,
Tehsil & District Sirsa,
Sirsa (Haryana) Applicant

The Principal,
Jawahar Navodaya Vidyalaya,
Odhan, Sirsa (Haryana) Respondent

APPEARANCES:

For the Workman : Shri R.K. Gautam

For the Management : Shri D.R. Sharma

AWARD

Passed on 23-7-2010

Government of India vide notification No. L-42012/113/2005-IR(CM-II), dated 11-05-2009 by exercising its powers under Section 10 of the Industrial Disputes Act, (the Act in short) has referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of Jawahar Navodaya Vidyalaya in terminating the services of Shri Gora Singh S/o Shri Sarup Singh w.e.f. 16-11-2004 is legal and justified? If not, to what relief the workman is entitled?”

After receiving the reference, parties were informed. Parties appeared and filed their respective pleadings. The case of the workman in nutshell is that he was appointed as electrician-cum-plumber on the basis of merit made by the selection committee constituted by the management. He was interviewed by the Committee on 09-06-99. He was appointed on 30-08-99 against the regular vacancy in the pay-scale Rs. 950/- plus DA per month. Two illegal conditions were incorporated by the management in the appointment letter. The first condition was that appointment of the workman will be for a period of one year or the regular incumbent joins. Another condition was that workman was supposed to sign a contract agreement by which the services of the workman were termed as contractual by the management. The work was available. The post on which the workman was appointed was of permanent nature. Several appointment letters were issued by the management. The workman served with the management from 30-08-99 to 16-11-2004 continuously. His services were terminated by the management of Jawahar Navodaya Vidyalaya, Sirsa without any notice or one month wages in lieu of notice and without lawful terminal dues. The workman was ex-army personnel and after rendering about 16 years in Army, he was discharged from his services on 30-9-98. The workman also belongs to SC category.

The workman has admitted that after terminating his services, the management had issued two letters dated 07-07-2005 and 12-07-2005, whereby asking him to join the services of the management on contract basis. The workman has admitted to receive the letters and replied the same on 16-07-2005 with request to intimate him about the terms and conditions of services. It is contended by the workman that management failed to provide with the particulars and information till today.

It is further contended by the workman that after termination of his services, the management has made fresh appointments of electrician-cum-plumber on 02-12-2004. Shri Chottu Ram S/o Shri Maru Ram, Resident of Village Lakarwali, District and Tehsil Sirsa was appointed on this post. The workman was not called before and for consequential relief after making the appointment.

On the basis of the facts the workman has claimed his termination void and illegal being against the provisions of the Act, hence, prayed for setting aside the termination order and reinstating him into the services along with consequential benefits.

The management appeared and contested the claim of the workman. Preliminary objection was taken that the management is not an industry under the provisions of the Act. It was casual preliminary objection taken by the management which was not raised thereafter. On merits, it was contended by the management that workman was appointed purely on contract basis. Terms and conditions of his services were written in appointment letter and the contract agreement entered into between the workman and the management. His services were not terminated but from and on 12-11-2004, he voluntarily abandoned the services. Considering the requirement of electrician-cum-plumber, he was asked to join the services on the same terms and conditions he has already served, but he never turned up to join the services. Consequently, one Shri Chottu Ram S/o Maru Ram was selected at his place. Thereafter, the head office has sanctioned the post of electrician-cum-plumber and the regular recruitments were made as per rules. Shri Chottu Ram S/o Maru Ram has been appointed as permanent employee (electrician-cum-plumber) on the post.

Both of the parties were afforded the opportunity for adducing evidence. Evidence of the workman was recorded on 04-03-2010, whereas, the statement of Shri R.P. Sharma, Principal, Jawahar Navodaya Vidyalaya Sirsa (Haryana) was recorded on 04-03-2010 itself. Opportunity for arguments was afforded to the parties. No one turned up on the date of the arguments. Hence, the file was reserved for award. All the documents relating to the appointment and extension of his term of appointment are on record. On perusal of the documents, it is evidently clear that appointment of workman was temporary appointment on contract basis till the new incumbent joins or for one year. It is established principle of service jurisprudence that whenever work is available appointment on contract for a fixed term and extending that for several times amounts to unlawful labour practice. If the work is available the work should be provided with to the workman continuously. But this principle cannot change the nature of services rendered by the workman. Meaning thereby, nature of appointment cannot be changed by the right of the workman to continue in service. Undoubtedly, the appointment of the workman was on contract for a specific term. It was

open for the management to terminate the services of the workman on appointment of any other person as per rules. The initial appointment of the workman, may be through interview or by another mechanism, cannot be termed as the regular appointment as per rules. It was an arrangement made by the management in exigency of work. It is also clear from the evidence that there was no sanction of the head office for the appointment of electrician-cum-plumber. If such temporary appointments are considered to be the appointments as per rules, it will give an unfettered power to the management to bypass the rules relating to the appointment in public offices. It is not the intention of the legislation. The intention of the legislature is very clear that preference should be given for regular appointments, and in case of exigency, temporary appointment can be made. In case the temporary appointment is made, this cannot be said to equate the regular appointments.

The right of the workman was protected as per the provisions of the Industrial Disputes Act. He was afforded the opportunity to continue in service till the regular incumbent joins. This right was never violated by the management. It is admitted by the workman that he received two letters to join the services on the basis of same terms and conditions he has already served. Receiving of these letters dated 07-07-2005 and 12-07-2005 is admitted. The workman has replied the letter imposing the condition on the management to inform him about the terms and conditions of the post and pay structure attached to the post. It is strange that workman had worked almost five years on the post on the basis of the terms and conditions attached to the post and he required about the terms and conditions attached to the post. Meaning thereby, workman was not willing to join on the basis of terms and conditions he was already served with the management. This refusal of the workman is a strong circumstance in support of the contention of the management that he has voluntarily abandoned his services. Thus, the cumulative effect of the facts and circumstances of the case and evidence on record is that workman was not willing to work on the terms and conditions of the appointment letter which was given to him initially and extended for several times. Whenever the workman has himself abandoned the work or is not willing to continue with the management, he cannot challenge the appointment of another person on the ground of contravention of the provisions of the Act.

Moreover, throughout the period the workman has gainfully employed. Presently he is working in Reliance and getting Rs. 10,000/- per month. This fact is well established that through out period he has been in employment sufficient for survival of his and his family. It has also been contended before this Tribunal that at the place of the workman one Chottu Ram, S/o Shri Maru Ram was appointed on the same terms and conditions on which the workman was appointed. Thereafter the head office has given the permission and sanction the post of

electrician-cum-plumber. On the basis of that permission, regular appointments as per the rules were made. The management has filed all the documents relating to the regular appointment to the post of electrician-cum-plumber on which the workman was previously working as contractual worker. No doubt, the virus of selection procedure cannot be challenged before this Tribunal and is not subject matter of decision, but the documents filed by the management shows that there was no procedural lapse in appointment of new incumbent. On the basis of the above observation, I am of the view that no right of the workman was infringed and he is not entitled for any relief. Let Central Government be approached for publication of award, and thereafter, file be consigned to record room.

G.K. SHARMA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एम.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 24/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-22012/157/2007-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Mahanadi Coalfields Limited, and their workman, which was received by the Central Government on 14-9-2010.

[No. L-22012/157/2007-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT:

Shri J. Srivastava, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 24/2007

Date of Passing Order 19th August 2010

BETWEEN

The Management of Chief General Manager, Talcher Area of MCL : 1st Party-Management

And

Their Workman Shri Farjan Alli,
Qrs. No. M/222, At./P.O. Dera Colliery, Distt. Angul,
Orissa

: 2nd Party-Workman

APPEARANCE:

Shri P.K. Mohapatra, : For the 1st Party-Management (Pers.)

Shri Farjan Alli : For Himself the 2nd-Workman.

ORDER

Case presented today before me. The 1st Party-Management is present through authorized representative. The 2nd Party-workman is present in person along with his authorized representative.

On the last date i.e. on 2-8-2010 the 2nd Party-workman had moved a petition before this Tribunal to allow him to withdraw the case expressing his inability to contest the case as he has attained the age of superannuation.

The said petition was fixed for today for hearing. I have heard both the parties. The 2nd Party-workman is still insisting on to withdraw the case. As such finding no legal hindrance in allowing the petition, I permit the 2nd Party-workman, who has gone in reference, to withdraw the dispute referred to this Tribunal for adjudication by the Government of India. In the said circumstances the reference is to be decided as withdrawn by the disputant-workman and the same is liable to be returned to the Government of India as unanswered.

The reference is accordingly returned unanswered, deeming it to have been withdrawn, to the Government of India, Ministry of Labour for taking necessary action at their end.

Dictated & Corrected by me.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बडौदा के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 28/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/91/2005-आई आर (बी-II)]
पुष्टेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2005) of the Central Government Industrial Tribunal/Labour Court-I, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 13-9-2010.

[No. L-12012/91/2005-IR (B-II)]
PUSHPENDER KUMAR, Desk Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, KARKARDOOMA COURTS COMPLEX, DELHI**

I.D. No. 28/2005

Smt. Madhu Mohini Bansal, : Workman
W/o Shri Madhur Bansal,
R/o House No. 2155, Sector-7,
Faridabad, Haryana,
Faridabad

Versus

The Regional Manager, : Management
Bank of Baroda,
Regional Office, Delhi City,
Region-II, 12th Floor, BOB Building,
16, Sansad Marg,
New Delhi-110001

AWARD

While working as Head Cashier (category 'C') at Mathura Road, Faridabad branch of Bareilly Corporation Bank Ltd. from 7-4-94 till 1-7-95, Smt. Madhu Mohini Bansal made cash payments on various cheques/form No. 10 which were not bearing signatures/seals of respective account holders. Besides that she received a sum of Rs. 110 from N.P. Bansal vide voucher No. 26 dated 5-5-95 for issuance of a pay order for a sum of Rs. 100. Subsequently, entry of Rs. 110 was deleted from cash register and she wrongfully appropriated pay order No. 015920 of Rs. 100 to her own gain. She also made payment on debit voucher dated 28-9-94 to an unidentified person, which remittance was shown to have been made to Defence Enclave branch of the bank, which money was never received by the said branch. She was suspended on 2-11-95. A charge sheet was served upon her on 27-1-98, which was later on amended by letter dated 21-2-98. An Enquiry Officer was appointed, who conducted enquiry into the charges referred above. During pendency of the enquiry, Bareilly Corporation Bank Ltd. was amalgamated with Bank of Baroda on 3-6-99. Her services were

transferred to bank of Baroda (hereinafter referred to as the Bank), as per the Scheme of amalgamation notified on 1-6-99. Enquiry Officer submitted his report dated 17-4-99 to the Disciplinary Authority. Show cause notice dated 21-4-99 was served upon her proposing punishment of dismissal from service. Her representation was considered and the Disciplinary Authority awarded punishment of removal from service with superannuation benefits to her vide order dated 1-5-2003. Her appeal came to be dismissed. She raised an industrial dispute before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred this dispute to this Tribunal for adjudication, vide order No. L-12012/91/2005 IR (B-II) New Delhi dated 27-9-2005 with following terms:

“Whether the action of the management of Bank of Baroda by removing Smt. Madhu Mohini Bansal from the services of the Bank w.e.f. 01-05-2003 is just, fair and legal? If not to what relief the workman is entitle to and from which date?”

2. In claim statement Smt. Bansal projects that she was appointed as Clerk-cum-Cashier by Bareilly Corporation Bank Ltd. on 21-7-82, which bank was amalgamated with Bank of Baroda on 3-5-99. Her services were transferred to the bank with continuity and all benefits. She was deemed to have been appointed by the bank on same terms and conditions as applicable to its employees. While posted at Faridabad branch of erstwhile Bareilly Corporation Bank Ltd., she was issued charge sheet dated 27-1-98, which was amended by way of letter dated 21-2-98. No chance was given to her to submit her reply to the charge sheet, since G.P. Singh, Manager, was appointed as an Enquiry Officer to enquire into the charges levelled against her, on the very date when charge sheet was served on her. She was placed under suspension on 2-11-95. However, she was reinstated on 15-7-2002 and posted at Nehru Place branch of the Bank. Enquiry Officer conducted the enquiry in a biased manner. He did not allow full opportunity to her to cross-examine the bank's witnesses and to examine witnesses in her defence. He had not placed her documents on record. He submitted his report dated 17-4-99, which was based on conjectures and surmises. Show cause notice dated 21-4-99 was served, proposing punishment of dismissal from service. She submitted her representation dated 12-5-99 against the said show cause notice. Without application of mind to the facts, the Disciplinary Authority had dismissed her from services vide order dated 1-5-2003. She projects that Rajesh Sarin, Rakesh Bhatnagar, Sunit Dhingra, Shiv Kumar Jham, B.P. Dubey and V.K. Jain were also served with the charge sheets. Minor punishments were awarded to them, while she was dismissed from service. She asserts that punishment awarded to her was shockingly disproportionate to her misconduct. Even otherwise she had been discriminated in award of punishment, which fact makes order of punishment illegal. She claims

reinstatement in service with continuity and full back wages.

3. The bank demurred the claim pleading that the claimant has not challenged enquiry proceedings/report of the Enquiry Officer/order passed by the Disciplinary Authority or the order passed by the Appellate Authority and has merely sought reinstatement in service with continuity of service, which cannot be granted merely at her request, without first setting aside the afore mentioned proceedings and orders. It has not been disputed that she joined the erstwhile Bareilly Corporation Bank Ltd. on 21-7-1982 in clerical cadre. The said bank merged with the bank on 3-6-1999 and all staff members were absorbed in the services of the bank, as per scheme of amalgamation in accordance with Government of India Notification No. F. 17/9/97-BOA (i) dated 1-6-1999. She was working as Head Cashier Category 'C' (Paying Cashier) in Mathura Road, Faridabad branch of the said bank, when she committed acts of gross misconduct. The bank projected that the claimant had made cash payments of various cheques/forms No. 10 which were not bearing signatures/seal/stamp of respective account holder, when presented for payment. She made cash payments for about 97 lacs on various dates. On 2-11-95 she was suspended and her suspension was revoked vide order dated 15-7-2002, which was without prejudice to the rights of the bank to initiate departmental action or any other action against her. It was denied that enquiry report dated 17-4-1999, submitted by the Enquiry Officer, is biased and based on surmises and conjectures. Enquiry report was based on facts borne out of record. Charges of wilful acts of aiding and abetting in commission of frauds, negligence in performance of duties, wilful acts of dishonesty, tarnishing image of the bank and prejudicial to the interest of the bank, stood proved against the claimant, which were of very serious in nature. The punishment imposed on the claimant is not shockingly disproportionate to the charges proved against her. Claim of the workman is liable to be dismissed summarily, pleads the bank.

4. On pleadings of the parties, following issues were settled :

1. Whether the enquiry conducted by the management was fair and just?
2. Whether the punishment awarded to the workman was commensurate to her misconduct ?
3. As in terms of reference.
4. Relief.

5. Issue No. 1 was treated as preliminary issue. Shri A. Shankar Narayanan was examined on behalf of the management to discharge on us resisting on it. The claimant

entered the witness box to rebut facts. After hearing the parties issue no. 1 was answered in favour of the bank and against the claimant, vide order dated 3-2-2010.

6. Arguments were heard at the bar. Shri Ashok Sharma, authorised representative, advanced arguments on behalf of the claimant. Shri B.S. Chauhan, authorised representative, advanced arguments on behalf of the bank. I have given my carefully considerations to the arguments advanced at the bar and cautiously perused and record. My findings on issues involved in the controversy are as follows :

Issue Nos. 2 & 3

7. It is not a matter of dispute that the claimant made payments of a voucher/form No. 10 dated 7-4-94 to a representative of M/s. Sathe Engineering Company Pvt. Ltd. amounting to rupees six lacs without signatures of the account holder on the said form. She also made payment of cheque No. 110438 dated 21-4-94 amounting to rupees three lacs to the representative of the aforesaid company without signatures of the account holder on the said cheque. Payment of a sum of rupees fifteen lacs was made by her, On cheque No. 272032 to representative of M/s. Ashish Engineering Works, without any signatures of account holder on the said cheque. In the same manner she made payment of rupees ten lacs on 27-3-95 on the strength of cheque No. 262775 and a payment of rupees twenty five lacs on 31-3-95 on the strength of cheque No. 262776 to a representative of M/s. Ashish Engineering Works, without signatures of the account holder on the aforesaid cheques. She also made payment of rupees twenty seven lacs on 23-5-95 on the strength of cheque No. 272048 to M/s. Ashish Engineer Works, despite the fact that the said cheque was not bearing signatures of the account holder. She also made payment of rupees four lacs on the strength of form No. 10 on 1-7-95 to representative of M/s. Mukesh Steel, despite the fact the said form number was not bearing signature and seal of the account holder. On 5-5-95 she received a sum of Rs. 110 from N.P. Bansal for issuance of pay order for a sum of Rs. 100. Entry was deleted from cash register and pay order No. 015920 for a sum of Rs. 100 was wrongly misappropriated by her for her own gains. She also made payment of rupees seven lacs on debit voucher dated 28-9-94 to an unidentified person and money never reached Defence Enclave branch, to whom remittance was shown to have been made. Thus she committed gross misconduct of negligence in performance of her duties, dishonesty, aided and abetted commission of fraud, tarnished image of the bank and committed acts which were prejudicial to the interest of the bank. On the charges referred above punishment of removal from service with superannuation benefits was awarded to her, vide order dated 1-5-2003.

8. What should be the appropriate punishment, which can be awarded to the claimant, is a proposition which

would be addressed by this Tribunal. Right of an employer to inflict punishment of discharge or dismissal is not unfettered. The punishment imposed must commensurate with gravity of the misconduct, proved against the delinquent workman. Prior to enactment of Section 11-A of the Industrial Disputes Act, 1947 (in short the Act), it was not open to the industrial adjudicator to vary the order of punishment on finding that the order of dismissal was too severe and was not commensurate with the act of misconduct. In other words, the industrial adjudicator could not interfere with the punishment as it was not required to consider propriety or adequacy of punishment or whether it was excessive or too severe. Apex Court, in this connection, had, however, laid down in Bengal Bhattee Coal Company (1963 (I) LLJ 219) that where order of punishment was shockingly disproportionate with the act of the misconduct which no reasonable employer would impose in like circumstances, that itself would lead to the inference of victimization of unfair labour practice which would vitiate order of dismissal or discharge. But by enacting the provisions of Section 11-A of the Act, the Legislature has transferred the discretion of the employer, in imposing punishment, to the industrial adjudicator. It is now the satisfaction of the industrial adjudicator to finally decide the quantum of punishment for proved acts of misconduct, in cases of discharge or dismissal. If the Tribunal is satisfied that the order of discharge or dismissal is not justified in any circumstances on the facts of a case, it has the power not only to set aside order of punishment and direct reinstatement with back wages, but it has also the power to impose certain conditions as it may deem fit and also to give relief to the workman, including award of lesser punishment in lieu of discharge or dismissal.

9. It is established law that imposing punishment for a proved act of misconduct is a matter for the punishing authority to decide and normally it should not be interfered with by the Industrial Tribunals. The Tribunal is not required to consider the propriety or adequacy of punishment. But where the punishment is shockingly disproportionate, regard being had to the particular conduct and past record, or is such as no reasonable employer would ever impose in like circumstance, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice. Law to this effect was laid by the Apex Court in Hind Construction and Engineering Company Ltd. [1965(I) LLJ 462]. Likewise in Management of the Federation of Indian Chambers of Commerce and Industry [1971(II) LLJ 630] the Apex Court ruled that the employer made a mountain out of a mole hill and had blown a trivial matter into one involving loss of prestige and reputation and as such punishment of dismissal was held to be unwarranted. In Ram Kishan [1996(I) LLJ 982] the delinquent employee was dismissed from service for using abusive language against the superior officer. On the facts and in the circumstances of the case,

the Apex Court held that the punishment of dismissal was harsh and disproportionate to the gravity of the charge imputed to the delinquent. It was ruled therein, "when abusive language is used by anybody against a superior, it must be understood in the environment in which that person is situated and the circumstances surrounding the event that led to the use of abusive language. No straight-jacket formula could be evolved in adjudicating whether the abusive language in the given circumstances would warrant dismissal from service. Each case has to be considered on its own facts."

10. In B.M. Patil [1996 (II) LLJ 536], Justice Mohan Kumar of Karnataka High Court observed that in exercise of discretion, the Disciplinary Authority should not act like a robot and justice should be moulded with humanism and understanding. It has to assess each case on its own merit and each set of fact should be decided with reference to the evidence recording the allegation, which should be basis of the decision. The past conduct of the worker may be a ground for assuming that he might have a propensity to commit the misconduct and to assess the quantum of punishment to be imposed. In that case a conductor of the bus was dismissed from service for causing revenue loss of 50p to the employer by irregular sale of tickets. It was held that the punishment was to harsh and disproportionate to the act of misconduct.

11. After insertion of Section 11-A of the Act, the jurisdiction to interfere with the punishment is there with the Tribunal, who has to see whether punishment imposed by the employer commensurate with the gravity of the act of misconduct. If it comes to the conclusion that the misconduct is proved, it may still hold that the punishment is not justified because misconduct alleged and proved is such as it does not warrant punishment of discharge or dismissal and where necessary, set aside the order of discharge or dismissal and direct reinstatement with or without any terms or conditions as it thinks fit or give any other relief, including the award of lesser punishment, in lieu of discharge or dismissal, as the circumstance of the case may warrant. Reference can be made to a precedent in Sanatak Singh (1984 Lab. I.C. 817). The discretion to award punishment lesser than the punishment of discharge or dismissal has to be judiciously exercised and the Tribunal can interfere only when it is satisfied that the punishment imposed by the management is highly disproportionate to the decree of the guilt of the workman. Reference can be made to the precedent in Kachraji Motiji Parmar [1994 (II) LLJ 332]. Thus it is evident that the Tribunal has now jurisdiction and power of substituting its own measure of punishment in place of the managerial wisdom, once it is satisfied that the order of discharge or dismissal is not justified. On facts and in the circumstances of a case, Section 11A of the Act specifically gives two fold powers to the Industrial Tribunal, first is virtually the power of appeal against findings of fact made by the Enquiry Officer

in his report with regard to the adequacy of the evidence and the conclusion on facts and secondly of foremost importance, is the power of reappraisal of quantum of punishment.

12. Power to set aside order of discharge or dismissal and grant relief of reinstatement or lesser punishment is not untrammelled power. This power has to be exercised only when Tribunal is satisfied that the order of discharge or dismissal was not justified. This satisfaction of the Tribunal is objective satisfaction and not subjective one. It involves application of the mind by the Tribunal to various circumstances like nature of delinquency committed by the workman, his past conduct, impact of delinquency on employer's business, besides length of service rendered by him. Furthermore, the Tribunal has to consider whether the decision taken by the employer is just or not. Only after taking into consideration these aspects, the Tribunal can upset the punishment imposed by the employer. The quantum of punishment cannot be interfered with without recording specific findings on points referred above. No indulgence is to be granted to a person, who is guilty of grave misconduct like cheating, fraud, misappropriation of employer's fund, theft of public property etc. A reference cannot be made to the precedent in *Bhagirath Mal Rainwa [1995 (1) LLJ 960]*.

13. Facts of the present controversy would be considered again to assess as to whether punishment awarded to her was shockingly disproportionate to the misconduct committed by her. Smt. Bansal made payments of rupees ninety lacs on the basis of cheques/form No.10 which were not bearing signatures/seal of the respective account-holders. She also made payment of rupees seven lacs on debit voucher dated 28-9-94 on which remittance was shown to have been had to the Defence Enclave branch of the bank. She made payment to an unidentified person who used the money for his personal gains. She had also pocketed a sum of Rs. 110 by misappropriating pay order No. 015920 for a sum of Rs. 100. Therefore, these facts highlight that Smt. Madhu Mohini Bansal committed grave misconducts, which amounted to cheating and fraud, besides negligence in performance of her duties.

14. An employee who cheats and defrauds its employer/customers cannot be retained in the service of the bank. Bank being financial institution is under an obligation to use utmost care in dealing with moneys of its customers. Care and caution expected to Smt. Bansal was not exercised by her. On the other hand she pocketed money of the bank and allowed an unidentified recipient of a sum of rupees seven lacs to wrongfully convert that amount to his own use. She tarnished image of the bank also. All these aspects are sufficient for the bank not to repose confidence in her. These aspects make it clear that punishment lesser than removal of Smt. Bansal from service was not required in the case. Punishment awarded to her,

was not disproportionate to misconduct committed by her not to talk of shockingly disproportionate to her acts.

15. Smt. Bansal presents that other employees of the bank were also charged but awarded lesser punishments. She being the payment cashier was supposed to exercise utmost care and caution, while making payment of cheques/form No. 10, which were not bearing signatures/seals of the respective account holders. Her role was prime one. Therefore, she cannot project that the person, who played lesser role than her, were to be equated with her. When her offence was distinct and different then she cannot expect to be placed on the pedestal on which the others were placed. Roles of those officers were much lesser than her. For discrimination she has to show that she was on the same pedestal on which the others, with whom she claims parity, were placed. No case of discrimination in award of punishment has been brought in forefront. Therefore, no interference is called for by this Tribunal on this issue too. Issues are, therefore, answered in favour of the bank and against Smt. Bansal.

Relief :

16. In view of the findings on issues referred above, it is crystal clear that no interference is called for in the punishment awarded to Smt. Madhu Mohini Bansal. Her claim statement is liable to be rejected. The same is, therefore, rejected. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 10-9-2010

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2519.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ इंडिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्राम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 2/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/156/03-आई आर (बी-11)]

पुष्पेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Bank of India and their workman, which was received by the Central Government on 13-9-2010.

[No. L-12012/156/03-IR (B-II)]
PUSHPENDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/2/2004

Date : 6-9-2010

Petitioner/
Party No. 1 : Smt. Chandabai Shyamsunder
Wankhede,
C/o Gajanan Pawar, Bhavani Base,
Post Daryapur, Amravati (M.S.)

Versus

Respondent/
Party No. 2 : The Asstt. General Manager,
Bank of India,
Nagpur Zone, Zonal Office,
S.V. Patel Marg, P. B. No. 4,
Nagpur-440 001

AWARD**(Dated : 6th September, 2010)**

This is a reference made by the Central Government in exercise of the power conferred by clause (d) of Sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) for adjudication of the Industrial Dispute between the management of Bank of India, Nagpur and their workman, Smt. Chandabai Shyamsunder Wankhede, as per letter No. L-12012/156/2003-IR (B-II) dated 27-11-2003 with the following Schedule :

“Whether the action of the management of Bank of India through the Chief Manager (CS & P), Zonal Office, S. V. Patel Road, Nagpur (M.S.) in dismissing the workman Smt. Chandabai Shyamsunder Wankhede, Ex. Sepoy-cum-Hammal from service w.e.f. 30-8-2002 is justified and legal ? If not, what relief the said workman is entitled to ?”

2. On receipt of the reference, the parties were noticed and the employee, Smt. Chandabai (hereinafter referred as the “employee”) filed her statement of claim. Management of the Bank also filed their written statement.

3. Facts leading to the present reference are as follows :

The employee was appointed in the Bank on compassionate ground in 1993 in the Bank of India in the post of Sepoy (Hamali) in place of her deceased husband, who was working as a Guard in the said Bank and was posted to Jaistamph Chowk Branch of the Bank, Amravati. While the employee was working as such, she was chargesheeted for the misconducts committed by her, in pursuance of the provisions of Clause 19.5 (c), (e) and (j) of First Bipartite Settlement. The alleged charges leveled against her were riotous

and disorderly behaviour in the premises of the Branch, wilful insubordination and disobedience of lawful and reasonable order of the superior and doing act prejudicial to the interest of the bank. Shri S. C. Balanaik, Manager, Yavatmal Branch was appointed as the Inquiry Officer to conduct the enquiry.

In the departmental enquiry, the employee was found guilty of committing certain acts of misconduct i.e. cl. 19.5 (c) and (e) of First Bipartite Settlement. Accepting the enquiry report, the Disciplinary Authority on 30-8-2002 passed the order of dismissal from service without notice against the employee. Against the order of dismissal dated 30-8-2002, the employee preferred an appeal before the Appellate Authority but her appeal was also dismissed. Hence, the employee moved the Regional Labour Commissioner, Nagpur for conciliation. As there was failure of the conciliation, the Labour Commissioner reported the matter to the Central Government and then the Central Government issued the reference to the Tribunal.

4. The employee in her statement of claims has challenged the enquiry not to be fair and proper and to have been conducted in violation of the principles of natural justice. According to her claims, the departmental enquiry was done ex-parte and in a slipshod manner ignoring all the norms of the enquiry and the evidence was recorded behind her back and she was not allowed to engage a counsel and was directed to engage the union representative to defend herself in the inquiry and she was pressurised to admit the charges by the Inquiry Officer and Shri Kulkarni, the Union Representative was engaged by her to defend her but the Union Representative did not attend the enquiry on some dates and her prayer to recall the witnesses examined by the Bank during her absence, for cross-examination was not allowed and proper opportunity was not given to her to defend herself and the enquiry report is not based on evidence on record and the Disciplinary Authority without considering the legal aspect passed the order of her dismissal only basing on the report of the Inquiry Officer and the Appellate Authority also without applying its mind to the merit of the appeal, dismissed the appeal and the charges leveled against her were that of general and minor in nature and were not grave and serious in nature and the impugned order of dismissal from service without notice passed against her is harsh and shockingly disproportionate looking to the nature of the charges.

5. The Bank in its written statement refuted all the allegations made in the statement of claim, pleading inter alia that the employee was charge-sheeted for her misconducts in pursuance of the provisions of clauses 19.5 (c), (e) and (j) of First Bipartite Settlement and every opportunity was given to her to defend her in the

departmental enquiry and after receipt of the enquiry report from the Inquiry Officer, the Disciplinary Authority on 21-8-2002 issued notice to her to show cause against the proposed punishment of dismissal from service without notice and she filed her show cause and was also heard in person and the Disciplinary Authority after taking into consideration all the materials on record passed the order of dismissal on 30-8-2002 and the employee preferred an appeal against such order before the Appellate Authority and in her appeal memo, she admitted her guilt and considering the entire material on record, the Appellate Authority dismissed the appeal. It was also pleaded that the enquiry was done in accordance with law and by observing the principles of natural justice.

6. As this was a case of dismissal from service of an employee (workman) after holding a domestic enquiry, this Court took into consideration the validity of the enquiry as a preliminary issue and passed orders on the validity of the enquiry on 9-5-2007. The said order was passed by my predecessor in office. In the said order, it has been held that the departmental enquiry was proper, legal and in accordance with the principles of natural justice. While declaring the enquiry to be valid and proper, this Tribunal took into consideration the objections raised by the employee regarding proceeding with the enquiry ex parte, of not giving her opportunity to cross-examine the departmental witnesses, of not permitting her to engage a counsel to defend her and that the evidence of all the witnesses examined by the Bank is stereo type which indicates that actually the witnesses were not examined and the Inquiry Officer wrote down the evidence himself and obtained the signatures of the witnesses there on subsequently and turned down the same by assigning reasons for the same.

7. In view of the findings that the enquiry was proper, legal and in accordance with the principles of natural justice, now, it is to be considered as regard to the perversity of the findings and the quantum of punishment.

8. Before entering into the merit of the matter, I think it apropos to mention that on 11-8-2009 and subsequent thereto, neither the employee herself nor her advocate appeared before this Tribunal to argue out on the point of perversity of the findings and quantum of punishment even though there were several adjournments for the same and as such, lastly on 17-8-2010 argument was heard from the side of the Bank and the case was posted for orders.

9. Perused the entire documents regarding the departmental enquiry alongwith the show cause notice, orders passed by the Disciplinary Authority, appeal memo filed by the employee, order of the Appellate Authority and all other concerned documents on record. The employee has taken a stand that she was not given an opportunity to cross-examine the management witness Nos. 1 to 9. However, it is found from the documents that

the employee had been given sufficient opportunity to defend her case but as she wilfully remained absent, the departmental witness Nos. 1 to 9 were examined in her absence. Moreover, the employee has admitted the charges leveled against her in her defence brief submitted before the Disciplinary Authority and so also in the appeal memo with explanation that she committed such overt acts due to frustration and under mental strain, which was never substantiated by adducing any evidence. It is found from the documents that the findings arrived at by the Inquiry Officer are based on the materials on record and the findings are not biased and arbitrary. It is also found that the Disciplinary Authority also after assessing the evidence independently has rightly held that the charges under cl. 19.5 (c) and (e) have been proved against the employee, which come under gross misconduct. So far the quantum of punishment is concerned, from the materials on record it is found that previously also the employee had been awarded with punishment of lowering down of pay by two stages in the time scale for her similar misconduct vide punishment order dated 6th July, 2000 and she had been given a chance to correct herself and to improve her behaviour, but still then, she failed to improve her conduct and behaviour and committed gross misconduct. After taking into consideration all the materials on record and her past conduct, I find that the punishment of dismissal from service without notice is not disproportionate to the charges leveled against the employee. The punishment imposed is not arbitrary or shocking disproportionate and as such call the same does not for any interference. Hence it is ordered :

ORDER

The action of the management of Bank of India through the Chief Manager (CS & P), Zonal Office, S. V. Patel Road, Nagpur (M.S.) in dismissing the workman Smt. Chandabai Shyamsunder Wankhede, Ex. Sepoy-cum-Hammal from service w.e.f. 30-8-2002 is justified and legal. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 26/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/102/08-आई आर (बी-II)।
पुष्पेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2009) of the Central Government Industrial Tribunal-cum-Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 14-9-2010.

[No. L-12012/102/08-IR (B-II)]
PUSHPENDER KUMAR, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, KARKARDOOMA
COURTS COMPLEX, DELHI**

I.D. No. 26/2009

Shri K. L. Chhabra,
WZ-20A, Om Vihar, Phase I,
Uttam Nagar,
New Delhi

.... Workman

Versus

The Punjab National Bank,
Zonal Office,
DAC Cell, 4th Floor,
Rajendra Bhawan, Rajendra Place,
New Delhi

.... Management

AWARD

Incident of cheating and misappropriation of an amount of Rs. 3000 out of an account of a customer, occurred at Naraina Vihar Branch of Punjab National Bank on 16th January, 2006. K. L. Chhabra, Computer Operator Category 'B', was performing duties of payment cashier at the said branch of the bank on that day. Shri Amar Nath Prasad, who was maintaining S.F. Account No. 01-336983 in the said branch, had sent one Vijay Kumar to the said branch for withdrawal of a sum of Rs. 3000. Withdrawal form duly signed by the account holder and pass book were presented by Shri Vijay Kumar to the claimant for withdrawal of a sum of Rs. 3000. Though he posted the withdrawal slip in the system, verified specimen signature of the account holder, balance in the account and debited the amount of Rs. 3000 to that account in computer at 11.17 A.M., yet he returned the pass book to Shri Vijay Kumar saying that payment would be made only to the account holder. In the evening account holder came in the branch to collect the payment. Claimant told him that he had already made payment to the bearer of the withdrawal slip, in the morning itself. As a result exchange of hot words took place between the claimant and the account holder.

After this incident, the account holder made a complaint about non receipt of payment, in lieu of withdrawal slip. Since the claimant had pocketed that amount, payment was made to the claimant out of sundry account of the bank.

2. Claimant was suspended on 16-1-2006 itself. Charge sheet was served upon him on 4-2-2006. Claimant demanded documents, vide letter dated 18-2-2006, which documents were sent to him vide letter dated 24th of March 2006. Since the claimant failed to submit his explanation to the charge sheet, a departmental enquiry was constituted. The Enquiry Officer conducted the enquiry proceedings, which were participated by the claimant. The Enquiry Officer submitted his report dated 31-1-2007 to the Disciplinary Authority, copy of which report was sent to the claimant. Personal hearing was given and, thereafter, punishment of dismissal without notice was awarded to the claimant vide order dated 16-8-2007. Without raising an appeal, the claimant filed a claim before the Conciliation Officer. Since conciliation proceedings failed, appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-12012/102/2008-IR (B-II), New Delhi dated 1st of June, 2009, with the following terms :

"Whether the action of the management of Punjab National Bank in imposing a penalty of "be dismissed without notice," on Shri K. L. Chhabra vide order dated 16-8-2007 is legal and justified ? What relief the concerned workman is entitled to ? "

3. Claim statement was filed by Shri K. L. Chhabra detailing therein that he joined services of Punjab National Bank on 12-8-77 as a clerk/cashier in Regional Manager's Office, Swami Ram Tirath Nagar, Jhandewalan, New Delhi. He was confirmed on that post on 12-2-78. He was transferred to three different branches of the bank upto September, 1981. In October, 1981, he was posted in Printing and Stationery Department, where he served upto 30-6-78. He details that from 5th July, 85 to 24-5-1995 too, he was transferred to three different branches of the bank, which facts disclose a story of victimization and unfair labour practice on the part of various officers of the bank. On 25-5-95 order of deemed retirement was passed against him, which order was quashed by this Tribunal, vide its award dated 25-7-2002.

4. Though the claimant have travelled beyond the terms of reference, but facts detailed by him are being noted with a view to ascertain as to whether claimant was victimized or the management adopted unfair labour practice qua him. It has been detailed that on 29-11-96 cheque No 501105, drawn for a sum of Rs. 70717.36 p, was sent by the Provident Fund Department to Dev Nagar branch of the bank, in settlement of his provident fund dues. This fact came to his knowledge vide letter dated 21-12-02 written by the then Chief Manager, Ashok Vihar branch of the bank. On his reinstatement, he was posted in Ashok Vihar

branch of the bank w.e.f. 14-11-2002. While working in Ashok Vihar branch, he officiated on the post of Special Assistant from 1st of January, 2003 onwards, without any formal practical training. He projects that his work was found satisfactory when he officiated as Special Assistant in that branch. He handed a letter dated 21-12-02 to the Chief Manager requesting him to pay his back wages and arrears with all consequential benefits, which wages were released in his favour sometimes in last week of January, 2003. He requested the Chief Manager, to settle remaining issues relating to provident fund, rectification of leave record w.e.f. 12-8-77, settlement of his various L.C.As., pending adjudication, so that he may give full attention to work allotted to him. However, when his consequential benefits were not released, he filed a claim petition, which pends adjudication before Central Government Industrial Tribunal No. II, New Delhi.

5. Claimant unfolds that he booked railway ticket from Delhi to Abu Road for himself and his dependent family members, which tickets were stolen by someone on 11-7-2003. On that very date those tickets were fraudulently got cancelled and encashed by some staff member from Azad Pur Railway Station, Delhi. When he came to know about those facts, he made a complaint to the Chief Manager, on which complaint no action was taken. He purchased another ticket for those very dates of his journey. The person who had stolen his tickets has caused a loss of Rs. 813/- to him. On that issue Senior Manager, HRD Section, Rajindra Place, New Delhi wrote to the Chief Manager that appropriate and stern action should be taken to curb such nuisances. In view of those facts, he was transferred to Sastri Nagar branch of the bank, where he was posted as Computer Operator. No formal training was given to him to work as Computer Operator. He was forced to work as receipt cashier, though he was designated as Computer Operator.

6. Third stagnation increment became due to him on 1st of August, 2003. He made representation for release of that increment in last week of August, 2003, but it was not released in his favour. Senior Manager, vide his letter dated 7th of August, 2003, advised him to appear for an interview for approval as a Special Assistant. He went to Regional Manager Office, Rajindra Place, New Delhi on 18-8-2003 to face that interview. Since the management was already biased against him, hence he was not selected for the post of Special Assistant despite the fact that his work as Special Assistant at Ashok Vihar branch of the bank was found satisfactory.

7. He wanted to avail L.F.C., but he was denied advance for the same. His L.F.C. bill for a sum of Rs. 3066 for his dependent family member was rejected on the ground that no prior permission for availing L.F.C. was obtained. He wanted to purchase a flat in Dwarka for which he applied for loan. His application was rejected. When he

approached I.C.I.C.I. bank for housing loan, an adverse report was submitted by the Senior Manager, which led to rejection of his application. On 27-10-2003 he deposited a sum of Rs. 15,000 in cash for obtaining three pay orders for a sum of Rs. 5,000 each favouring Unitech Limited, which request was declined, though being a staff member he was not liable to pay commission. Whenever anyone made a telephone call for him, Senior Manager used to tell him that he was not available in the branch. To get rid of him, somewhere on 2nd of May, 2005 the Senior Manager ordered him to report for further duties to R.C.C. Zonal Training School, Vikrant Tower, Rajindra Place, New Delhi. He joined the said Centre on 23-5-2005, where he remained posted for a considerable period. He details that the bank was irregular in payment of his salary. Salary for October to December, 2004 was paid to him on 5-2-2005. Salary for February and March, 2005 was paid to him on 31-3-05. Salary for April, 2005 was paid to him on 17-5-2005. Salary for May, 2005 and August, 2005 was paid to him in last week of September, 2005. Salary for October and November, 2005 have not been paid to him till date, despite his representation dated 20-11-06.

8. Though his designation was that of Computer Operator, yet he was supposed to work as Payment Cashier on most of occasions. He was not given any formal training in that regard. On 24-8-05 he submitted an application in the office of the Regional Manager, North Delhi Region, detailing various acts of victimization. He unfolds that for about 70 days he worked as Locker in-Charge and 19 days as Special Assistant in Yamuna Nagar branch of the bank, but no officiating allowance was paid to him. While posted at Yamuna Vihar branch of the bank, he had to spend considerable time in to and fro journey and as such he went in depression. He was treated by a Psychiatrist for that ailment. On 24-11-05 he was transferred to Naraina Vihar branch of the bank. In that branch too, he made request for settlement of his claims, which were pending adjudication before the CGIT. He was considered to be problem by his officer. He submitted a representation to Chief Manager, Naraina Vihar branch to settle his claims which were pending adjudication before the Tribunal. Chief Manager suggested that whatever would be adjudicated, as payable by the Tribunal, would be paid to him. His claims were not settled by him. He requested Shri Ahuja, the Manager to post him as Computer Operator Category 'A'. Shri Ahuja told that he has been deputed in that branch as Computer Operator Category 'B'. Under compulsion he has to work as Computer Operator Category 'B'.

9. Claimant portraits a picture that on 14-1-2006 he asked the Chief Manager as to whether his leave for 90 days have been sanctioned. He informed him that he would be able to detail facts of 16th of January, 2006. On 16th of January, 2006 he worked as Computer Operator Category 'B', finished his work and handed over cash to Head Cashier at about 5.15 P.M. He asked Shri P. P. Sharma as to whether

his leaves have been sanctioned. Shri P. P. Sharma, Manager told him that Chief Manager would reach the branch by 5.45 P.M., who will inform him in that regard. As such he waited for the Chief Manager and when he did not arrive, he again asked Shri Sharma about fate of his leave application. Shri Sharma told him that the Chief Manager would reach the branch and have a dialogue with him regarding his grievance also. As such he kept on waiting for the Chief Manager at his seat. At about 6.30 P.M., two boys came to his seat, one of them told him that he had sent his brother to collect payment of Rs. 3000 at 11.15 A.M., which payment was not made by him to his brother. The claimant projects that he told those boys that payment was already made. Those boys demanded withdrawal slip. He doubted that in case he would hand over withdrawal slip to them then they would bear it, so he did not hand over withdrawal slip to them. At that juncture Shri N. K. Pasi started talking to him. Shri Pasi was then Secretary of the branch also arrived there. He informed him in case payment had not been made then he will make payment to the customer and he would do so on 11.15 P.M. that amount on the next date.

10. The claimant had detailed the unfolded instances of witnesses before the Enquiry Officer, in his claim that he did with a view to show that the facts narrated by them lack veracity. Since facts pleaded by the claimant in his statement are irrelevant, hence it is not expedient to reiterate those facts herein for the sake of brevity. The claimant went on to narrate that as per chargesheet dated 20-2-2007 he was required to submit his reply within 15 days. Vide communication dated 24-3-06 he demanded documents and when documents were supplied to him, he submitted his reply on 10-4-2006. The Enquiry Officer started proceedings on 12-6-2006. On 12-6-2006 he asked for some documents. On 13-6-2006 evidence of Virender Kumar Singh, Mr. K. East and A. K. Sharma were recorded in his absence. According to him, the Enquiry Officer, Presenting Officer and charge-sheeted employee were under an obligation to sign deposition of the witnesses and since deposition of the charge-sheeted witnesses do not bear their signatures, hence the fact portraits that they were examined in his absence. When Virender Kumar Singh was cross-examined by his defence representative on 16-8-2006, and on 25-11-2006 he gave contradictory answers. He detailed narration of the witnesses in his claim statement with a view to prove, but that his testimony lacks credibility. He had also detailed facts unfolded by witness Prem Singh and to prove a point that those facts are farther from truth.

11. To project instances of false complaints made by various customers, the claimant unfolded that complaints made by Om Parkash Gupta, Ranvir Singh, Mr. Parkash, Manjo Sharma, Meena and two others, whose names could not be detected, were found to be false. In view of those facts the claimant wants to project that the same can be attached to the complainant. He also wants to prove that the

present controversy, since there can be a possibility of that complaint being false.

12. To unfold practice of not obtaining signatures on reverse of withdrawal slip, the claimant details instances when he withdrew money from his saving bank Account No. 0148000201484075 maintained at Kirti Nagar branch of the bank, saving bank Account No. 01291530001238 at Janak Puri branch of HDFC bank, saving bank Account No. 25960 maintained at Janak Puri branch of the bank and his signatures were not obtained on reverse of the withdrawal slip or cheque. With a view to project that there was no obligation on his part to obtain signatures of the bearer of the withdrawal slip on its reverse when a sum of Rs. 3000 was released by him, the claimant had detailed those instances when he withdrew money from the aforesaid accounts. He wants to impress upon that non obtaining signatures of the bearer of the withdrawal slip on its reverse was not a lapse on his part.

13. He details that the Enquiry Officer, namely, Virender Dube was biased, since he completed the enquiry proceedings on 18-12-2006 but submitted his report to the Disciplinary Authority on 31-1-2007. He unfolds that notice for personal hearing ought to have been issued on 18-12-2006 upto 30-4-07 but it was sent on 19-7-2007, with unknown motives. He narrates a story that Ms. Shobha Bhandari and Pramod Kumar Bansal were responsible for biased service of show cause notice on him. Why he could not appear before the Disciplinary Authority for personal hearing. He details that it was an account of non-availability of his defence representative on one hand and his ailment on the other. He attended personal hearings on 24-8-2007. He unfolds that order of punishment was passed on 16-8-2007 but it was sent to him by speed post on 23-8-2007.

14. To project his conduct as punctilio of higher court, the claimant detailed instances of his honesty in the claim statement. He unfolds that on 27-3-04 at Sastri Nagar Branch of the bank a sum of Rs. 1,000 was handed in excess to him by a customer, which account lies in saving account of the bank. In the like manner on 19-2-2005 while working at Yamuna Vihar branch of the bank, he deposited a sum of Rs. 650 in saving account of the bank, which was given to him in excess. On two occasions, lockers were violated by the customers. He reminded them and got it locked. He details that Rajinder Arora could get his gold ornaments worth 45 grams on account of his honest acts. Shri Arora had appreciated him, but regard which the claimant, his honesty and integrity.

15. To paint a picture of his victimization at the hands of the management, he unfolds that LCA No. 5/87 was decided in his favour by Central Government Industrial Tribunal No. II, New Delhi, vide its order dated 31-8-2005. His LCA No. 47/98 was rejected by the Tribunal, when it was misled by Shri S. K. Saha, Shri Surbhi Rana, Mr. Sharma and Pramod Kumar Bansal. Later on he moved an application and his

claim was partly allowed vide order dated 14-3-07. LCA No. 16/91 was rejected by the C.G.I.T. His LCA No. 52/2007 was not adjudicated in his favour when the Tribunal was misled by the officers of the management. He projects that his employer got annoyed when he raised various demands. Smt. Surbhi Rana and P. K. Bansal advised Disciplinary Authority to award punishment of dismissal without notice. The said punishment cannot sustain since domestic enquiry was held in violation of the principles of natural justice. Chargesheet submitted to him was vague and not proved at all. He seeks his reinstatement in service with continuity and full back wages. According to him 5% of his wages be recovered from Vijay Dube, 65% of his wages is to be recovered from Bansi Lal Patheja, Disciplinary Authority and 15% each be recovered from Shri Pramod Bansal and Smt. Surbhi Rana. Besides the reliefs detailed above, he also claims payment towards newspaper bills, medical bills, leave fare concession, special allowance, medical aid, benefits towards accumulation of leaves of various kind, conveyance allowance for attending departmental enquiries, besides interest on above claims.

16. Claim was demurred by the management pleading that the claimant has traveled beyond the terms of reference, when he submitted his claim statement. The facts which exceeds the terms of reference cannot be adjudicated. The averments, which exceed terms of reference, may be discarded. Appointment of the claimant as clerk-cum-cashier on probation on 12-8-77 and his confirmation on 12-2-78 are not disputed. It is also not disputed that he was transferred to three different branches of the bank upto September, 1981. It is also not disputed fact that he remained posted in Printing and Stationery Department w.e.f. October, 1981 till 30-6-85. The management projects that contents of para Nos. 2 to 42 of the claim statement, are outside the purview of the terms of reference, hence need no reply. It has been pleaded that on 16-1-2006 the claimant was working as Computer Operator Category 'B' at Naraina Vihar branch of the bank. On that day at about 11 A.M., Vijay Kumar came to the branch alongwith pass book of S.F. account No. 01-336983 and withdrawal form for Rs. 3000 for self, to be withdrawn in the name of Shri Amar Nath Prasad, the account holder. After posting the said withdrawal slip in the system, verifying the specimen signature and balance in that account, claimant returned the pass book to Shri Vijay Kumar saying that the payment would be made only to account holder. However, he debited amount to the aforesaid account in the computer at 11.17 A.M. In evening Amar Nath Prasad came to the branch to collect payment. The claimant took a stand that he had made payment to the bearer of the withdrawal slip in morning hour itself. As a result an exchange of arguments took place and when Shri Chhabra had not made payment to the claimant, he made a complaint against him. Shri Chhabra was suspended on the date of incident itself. Chargesheet dated 4-6-06 was served upon him, which was

clear and specific. The claimant acknowledged the receipt of the chargesheet, vide his letter dated 14-1-2006, on the strength of which he demanded certain documents. Documents were supplied to the claimant on 24-3-2006. The claimant did not submit his comments to that chargesheet hence departmental enquiry was constituted vide order dated 10-4-2006. The claimant participated in the departmental enquiry alongwith his defence representative. Opportunity to cross-examine witness examined by the management, was accorded to him. Due opportunities were given to him to prove his defence. Enquiry was concluded on 18-12-2006 and the Enquiry Officer submitted his report dated 31-1-2007 to the Disciplinary Authority. Copy of the enquiry report was sent to Shri Chhabra on 2-2-2007. He submitted his representation dated 15-2-2007, which was duly considered by the Disciplinary Authority. Show cause notice dated 27-6-2007 was sent. Since the postal article was delivered back, another notice was sent to him through registered post, fixing personal hearing for 31-7-07. On request of the claimant, date for personal hearing was adjourned to 15-4-07. Personal hearing was given to the claimant and vide order dated 16-8-2007 punishment of dismissal without notice was awarded to him. It has been claimed that the Enquiry is in consonance with the principles of natural justice. Even otherwise, if the Tribunal comes to a conclusion that the enquiry was defective, the bank would like to lead evidence to prove misconduct of the claimant.

17. Statements of witnesses, namely, Virender Kumar Singh, N. K. Pasi and P. P. Sharma were recorded on 16-8-09, in presence of the claimant. However, their cross-examinations were postponed to a subsequent date at the request of the claimant, who wanted to change his defence representative. It has been pleaded that conclusions, regarding veracity of the witnesses drawn by the claimant, have no basis. Claimant had drawn wrong inference out of facts testified by the witnesses. Documents submitted by the claimant were taken over the record. Management projects that instances, detailed in the claim statement, do not convey any reasonable fact or substance. The instances, narrated by him relating to his honesty or withdrawal of money from various banks, lead nowhere. It has been projected that claim statement deserves dismissal, hence it may be dismissed. A prayer has been made that the reference may be answered in favour of the management.

18. On pleadings of the parties following issues were settled :

1. Whether the enquiry conducted by the management was just, fair and legal ?
2. Whether the punishment was proportionate to the misconduct ?

3. As in terms of reference.

4. Relief.

19. Issues No. 1 was treated as preliminary issue. Shri Ashwani Kumar Sharma was examined on behalf of the management, to discharge onus resting on it. Shri K. L. Chhabra examined himself as well as Shri Rajinder Arora to substantiate his claim. After hearing arguments and on appreciation of evidence adduced preliminary issue was answered in favour of the management and against the workman, vide order dated 14-6-2010.

20. Arguments were heard on proportionality of punishment. Shri J. N. Kapoor, authorized representative, as well as the claimant advanced arguments over the matter. Shri Ashwani Kumar Sharma, authorized representative, advanced arguments on behalf of the management. Written submissions were filed by the parties. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on proportionality of punishment are as under :

Issue Nos. 2, 3 & 4

21. Charges of wilful damage to the property of the bank or any of its customers and doing act prejudicial to the interest of the bank or acts which were likely to be involve in the bank in serious loss were leveled against the claimant in chargesheet Ex. MW1/W1, served on him on 4th of February, 2006. As per contents of that chargesheet, on 16-1-2006 at 11 A.M. Shri Vijay Kumar tendered one withdrawal form for Rs. 3000 alongwith pass book of S.F. Account No. 01-336-983 being maintained in the name of Amar Nath Prasad to the claimant, who entered/posted withdrawal slip in the system, verified specimen signatures/balance in the account and returned that pass book to Shri Vijay Kumar saying that the payment would be made to Shri Amar Nath Prasad, the account holder. He debited the amount in the said account at 11.17 A.M., without making any payment to the bearer of the withdrawal form. In the evening, Shri Amar Nath alongwith Vijay Kumar came to the branch to collect payment and at that juncture the claimant took a stand that he had already made payment to the bearer of the withdrawn slip, in the morning. An exchange of heated arguments took place between Shri Amar Nath Prasad and the claimant and thereafter Shri Amar Nath Prasad filed a written complaint about non receipt of payment in lieu of withdrawal slip. In that fashion the claimant did not gave a sum of Rs. 3000 to the customer, after debiting his account and pocketed the money. When the aforesaid charges stood proved in the enquiry, the Disciplinary Authority issued show cause notice to the claimant on proposed punishment, gave personal hearing to him and awarded punishment of dismissal without notice vide order dated 16-8-2007.

22. Claimant asserts that punishment awarded to him is shockingly disproportionate to the misconduct committed

by him. According to him, he rendered long service to the bank, which fact was not taken into account. He further agitates that the bank had adopted a posture of victimization since he was transferred time and again from one branch to the other. On 25-5-95 an order of deemed retirement was passed against him, which order was quashed by this Tribunal vide its award dated 25-7-2002. On his reinstatement he was posted to Ashok Vihar branch of the bank, but his claim relating to provident fund and rectification of leave record w.e.f. 12-8-77 were not settled. His consequential benefits were also not released in his favour. Third stagnation increment, which became due on 1st of August, 2003, was not released in his favour. He was not selected for the post of Special Assistant despite the fact that his work as Special Assistant at Ashok Vihar branch was found to be satisfactory. His salary were delayed for months while salary for the months of October and November, 2005, have not been paid to him. Though he was Computer Operator, yet he was made to work as payment cashier on many occasions. Since he filed various Labour Court Applications for adjudication of his claims, it irked the bank authorities and they started his victimization and unfair labour practice. He further preys that his services have been commendable. On 27-3-2004 at Sastri Nagar branch of the bank, a sum of Rs. 1,000 was handed over to him in excess by a customer, which amount lies in sundry account of the bank. In the like manner on 19-2-2005, while working at Yamuna Vihar branch of the bank he deposited a sum of Rs. 650 in the sundry account which was given in excess to him. On two occasions lockets were left unlocked by the customers. He reminded them and got those lockers locked. Shri Rajinder Arora detailed facts in that regard before this Tribunal, when he could get his gold worth 45 grams, on account of his honest acts. These facts suggest that his honesty and integrity was appreciable at various instances, which fact ought to have been taken into account by the bank while awarding punishment to him.

23. Shri Arora dispels facts presented by the claimant, saying that service record of the claimant has never been good. The claimant used to create troubles for his seniors wherever he was posted. He contends that charges proved against the claimant show that misconducts committed by him were very grave and bank cannot repose confidence in him. He agitates that punishment awarded to the claimant commensurate to his misconduct. However facts presented by Shri Rajinder Arora, in his testimony, remained unassailed.

24. What should be the appropriate punishment, which can be awarded to the claimant, is a proposition which would be addressed by this Tribunal. Right of an employer to inflict punishment of discharge or dismissal is not unfettered. The punishment imposed must commensurate with gravity of the misconduct, proved against the delinquent workman. Prior to enactment of

section 11-A of the Industrial Disputes Act, 1947 (in short the Act), it was not open to the industrial adjudicator to vary the order of punishment on finding that the order of dismissal was too severe and was not commensurate with the act of misconduct. In other words, the industrial adjudicator could not interfere with the punishment as it was not required to consider propriety or adequacy of punishment or whether it was excessive or too severe. Apex Court, in this connection, had, however, laid down in Bengal Bhattee Coal Company [1963 (I) LLJ 291] that where order of punishment was shockingly disproportionate with the act of the misconduct which no reasonable employer would impose in like circumstances, that itself would lead to the inference of victimization or unfair labour practice which would vitiate order of dismissal or discharge. But by enacting the provisions of section 11-A of the Act, the Legislature has transferred the discretion of the employer, in imposing punishment, to the industrial adjudicator. It is now the satisfaction of the industrial adjudicator to finally decide the quantum of punishment for proved acts of misconduct, in cases of discharge or dismissal. If the Tribunal is satisfied that the order of discharge or dismissal is not justified in any circumstances on the facts of a case, it has the power not only to set aside order of punishment and direct reinstatement with back wages, but it has also the power to impose certain conditions as it may deem fit and also to give relief to the workman, including award of lesser punishment in lieu of discharge or dismissal.

25. It is established law that imposing punishment for a proved act of misconduct is a matter for the punishing authority to decide and normally it should not be interfered with by the Industrial Tribunals. The Tribunal is not required to consider the propriety or adequacy of punishment. But where the punishment is shockingly disproportionate, regard being had to the particular conduct and past record, or is such as no reasonable employer would ever impose in like circumstance, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice. Law to this effect was laid by the Apex Court in Hind Construction and Engineering Company Labour [1965 (J) LLJ 462]. Likewise in Management of the Federation of Indian Chambers of Commerce and Industry [1971 (II) LLJ 630] the Apex Court ruled that the employer made a mountain out of a mole hill and had blown a trivial matter into one involving loss of prestige and reputation and as such punishment of dismissal was held to be unwarranted. In Ram Kishan [1996 (I) LLJ 982] the delinquent employee was dismissed from service for using abusive language against a superior officer. On the facts and in the circumstances of the case, the Apex Court held that the punishment of dismissal was harsh and disproportionate to the gravity of the charge imputed to the delinquent. It was ruled therein, "when abusive language is used by anybody against a superior, it must be understood in the environment in which that person is

situated and the circumstances surrounding the event that led to the use of abusive language. No straight-jacket formula could be evolved in adjudicating whether the abusive language in the given circumstances would warrant dismissal from service. Each case has to be considered on its own facts."

26. In B. M. Patil [1996 (II) LLJ 536], Justice Mohan Kumar of Karnataka High Court observed that in exercise of discretion, the Disciplinary Authority should not act like a robot and justice should be moulded with humanism and understanding. It has to assess each case on its own merit and each set of fact should be decided with reference to the evidence recording the allegation, which should be basis of the decision. The past conduct of the worker may be a ground for assuming that he might have a propensity to commit the misconduct and to assess the quantum of punishment to be imposed. In that case a conductor of the bus was dismissed from service for causing revenue loss of 50p to the employer by irregular sale of tickets. It was held that the punishment was too harsh and disproportionate to the act of misconduct.

27. After insertion of section 11-A of the Act, the jurisdiction to interfere with the punishment is there with the Tribunal, who has to see whether punishment imposed by the employer commensurate with the gravity of the act of misconduct. If it comes to the conclusion that the misconduct is proved, it may still hold that the punishment is not justified because misconduct alleged and proved is such as it does not warrant punishment of discharge or dismissal and where necessary, set aside the order of discharge or dismissal and direct reinstatement with or without any terms or conditions as it thinks fit or give any other relief, including the award of lesser punishment, in lieu of discharge or dismissal, as the circumstance of the case may warrant. Reference can be made to a precedent in Sanatak Singh (1984 Lab. I.C. 817). The discretion to award punishment lesser than the punishment of discharge or dismissal has to be judiciously exercised and the Tribunal can interfere only when it is satisfied that the punishment imposed by the management is highly disproportionate to the decree of the guilt of the workman. Reference can be made to the precedent in Kachraji Motiji Parmar [1994 (II) LLJ 332]. Thus it is evident that the Tribunal has now jurisdiction and power of substituting its own measure of punishment in place of the managerial wisdom, once it is satisfied that the order of discharge or dismissal is not justified. On facts and in the circumstances of a case, Section 11A of the Act specifically gives two fold powers to the Industrial Tribunal, first is virtually the power of appeal against findings of fact made by the Enquiry Officer in his report with regard to the adequacy of the evidence and the conclusion on facts and secondly of foremost importance, is the power of reappraisal of quantum of punishment.

28. Power to set aside order of discharge or dismissal and grant relief of reinstatement or lesser punishment is not untrammelled power. This power has to be exercised only when Tribunal is satisfied that the order of discharge or dismissal was not justified. This satisfaction of the Tribunal is objective satisfaction and not subjective one. It involves application of the mind by the Tribunal to various circumstances like nature of delinquency committed by the workman, his past conduct, impact of delinquency on employer's business, besides length of service rendered by him. Furthermore, the Tribunal has to consider whether the decision taken by the employer is just or not. Only after taking into consideration these aspects, the Tribunal can upset the punishment imposed by the employer. The quantum of punishment cannot be interfered with without recording specific findings on points referred above. No indulgence is to be granted to a person, who is guilty of grave misconduct like cheating, fraud, misappropriation of employer's fund, theft of public property etc. A reference cannot be made to the precedent in *Bhagirath Mal Rainwa* [1995 (I) LLJ 960].

29. As projected above the claimant had debited saving bank account of Amar Nath Prasad to the tune of Rs. 3000, when withdrawal form was tendered to him by Vijay Kumar in morning hours of 16-1-2006. He returned pass book to Vijay Kumar saying that payment would be made only to the account holder. In evening account holder reached and demanded his payment. At that juncture the claimant took a stand that he had already made payment to the bearer of withdrawal form in morning hours. He thus pocketed that money. The manner in which money was debited by the claimant highlights that he played fraud on Vijay Kumar, cheated him and pocketed a sum of Rs. 3000.

30. An element of deception is an essential ingredient of fraud. The expression "defraud" involves two elements, namely, deceit and injury to the person deceived. Here injury is something other than economic loss, that is, deprivation of property whether moveable or immovable or of money, but will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver will almost always cause loss or detriment to the deceived. Therefore, act of dishonesty or fraud constitute misconduct of serious nature, warranting penalty of dismissal. Reference can be made to *President in Tika Ram and Sons Ltd.* [960 (I) LLJ 514].

31. An employee of the bank who defrauds a customer commits acts of grave nature. It cannot be expected of the bank to condone such acts, since it would reflect on its

business. Its customers would run away if such instances would be exonerated. An employee of the bank, who is custodian of money of its customers, has to maintain a higher standard of conduct. Instances like one referred above are prejudicial to the interest of the bank also. Therefore, the bank cannot repose confidence in such an employee. Under these circumstances, it is evident that the claimant deserves punishment, not lesser than that which would deprive him of his employment.

32. While awarding punishment, the Disciplinary Authority has to take into account past record of service of an employee. It is not a matter of dispute that the claimant had shown commendable behaviour in past. Shri Rajinder Arora vouches for honest act of the claimant, which took place on 16-11-05. The claimant had deposited a sum of Rs. 1000 in sundry account of Shastri Nagar branch of the bank on 27-3-04, which amount was paid in excess to him by a customer. In the like manner he deposited a sum of Rs. 650 in sundry account of Yamuna Vihar branch of the bank on 19-2-2005, which was given in excess to him by a customer. On two occasions customers left their lockers unlocked and the claimant got it locked and saved the bank from humiliating position. These instances project that in past the claimant performed his duties in an honest manner, on certain occasions. He joined services of the bank on 12-8-77 and was dismissed from the services on 16-1-2006. Though at intervals he was suspended but the Tribunal granted relief to the claimant when he was ordered to be reinstated in service vide award dated 25-7-2002. Allegations of victimization, levelled by the claimant were considered and denounced vide order dated 14-6-2010. However, aspects, detailed above, make it clear that no consideration was given to the facts which project his commendable acts, when punishment was awarded to the claimant. Without grant of requital of good behaviour, punishment of dismissal without notice shocks conscience of an ordinary prudent man. Making a balance of good instances, referred above and acts of grave misconduct committed by the claimant, punishment of removal from services with superannuation benefit and without disqualification from future employment would be appropriate punishment for the claimant. Therefore, I substitute punishment of removal from service with superannuation benefit and without disqualification from future employment to that of a punishment of dismissal without notice. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 27-8-2010

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2521.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ओमान एयर के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अर्नाकुलम के पंचाट (संदर्भ संख्या 26/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-11012/51/2007-आई आर (सी-1)]
डी. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Oman Air and their workman, which was received by the Central Government on 14-9-2010.

[No. L-11012/51/2007-IR (C-I)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri P. L. Norbert, B.A., LL.B., Presiding Officer
(Wednesday the 23rd day of June, 2010/2nd Ashadam, 1932)

I.D. No. 26/2007

Workman : Shri Hariprasad Menon,
Sreemookambika, T.C. No. 16/599(1)
EV RA-27, Near Krishna Temple,
Kochar Road, Jagathy,
Trivandrum-14

By Adv. Sri M. S. Vijayachandra Babu.

Managements : 1. The District Manager,
Oman Air, Oman Aviation Company,
Mark Towers,
Thompil Buildings,
Sasthamanagalam, Trivandrum

2. The Airport Officer,
Oman Air, International Airport,
Trivandrum

By Adv. M/s. Menon and Pai.

This case coming up for hearing on 18-6-2010, this Tribunal-cum-Labour Court on 23-6-2010 passed the following :

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

“Whether the action of the Management of Oman Air (Oman Aviation Company), Trivandrum in removing Shri Hariprasad Menon, Cargo Service Agent from the services of w.e.f. 1-11-2006 is justified and legal ? If not, to what relief is the concerned workman entitled ?”

2. The facts of the case in brief are as follows : The workman Sri. Hariprasad Menon was an employee of Oman Air working at International Airport, Trivandrum from 1998. While so the management, Oman Air, issued a charge sheet alleging that the workman, who was appointed as Cargo Service Agent and whose duty was to check the weight of cargo and prepare Airway bills, had shown reduced weight of cargo during the period 2004-2005 which resulted in heavy loss to the management. A domestic enquiry was conducted, he was found guilty of the charges of breach of trust, dereliction of duty and causing wrongful loss to the management and was removed from service. Hence the reference.

3. According to the workman though he was appointed as Cargo Service Agent of the management no duties and responsibilities were assigned to him. He was therefore following the practice and procedure prevalent. The domestic enquiry was conducted in violation of the principles of natural justice and the findings are perverse. The workman attended the duty of weighing cargo only on two days in a week during 2004-05. The remaining days were attended by Sri. Kannan, an employee of R L Travels (GSA). Besides the workman was absent for about 270 days due to leave, holidays and weekly off. This aspect was not considered by the Enquiry Officer. He also failed to note the weight of stand by Cargo. Even before issuing charge sheet the management had initiated steps for claiming insurance for the alleged loss sustained. With that in mind a criminal complaint was filed by the management. If at all there is any irregularity in recording weight of cargo it might have been done by Sri Kannan an employee of R L Travels (agent of Oman Air). His service was terminated all on a sudden by R L Travels and no enquiry was conducted against him. The workman has put in 13 years of service. He is unemployed since his removal from service and he is entitled to be reinstated with back wages and other benefits.

4. According to the management the workman was a cargo service agent. He was in charge of monitoring, overseeing, accepting and loading of cargo for transportation to Muscat by Oman Air Flights. He was

required to verify and tally the weight in the airway bills with other records and sign the bills in token of their correctness. While so, during spot checking conducted on 23rd and 24th August 2005 by management it was found that there was un-manifested cargo to the tune of 1120 kgs and 1145 kgs. respectively. On further checking it was revealed that there was similar several short weighing of cargo during the year 2004. In the course of preliminary enquiry the workman admitted guilt but pleaded for pardon. The workman was given full and fair opportunity to defend in the enquiry. He was represented by a lawyer. The management witnesses were cross-examined. A copy of the report was given to the workman for his comments. Since misconduct committed was of the serious nature he was removed from service w.e.f. 1-11-2006. The enquiry was conducted in a fair and proper manner in compliance with the principles of natural justice. The findings are based on evidence. The punishment is commensurate with the misconduct. As a cargo service agent it was the duty of the workman to ensure the correctness of cargo meant for transportation. There is nothing wrong in claiming insurance if the management has sustained loss. There is equally no prohibition in initiating criminal proceedings against an employee. The management disputes that the workman is remaining unemployed. It is understood that he is employed in Dubai. The disciplinary action against the workman is only to be upheld.

5. In the light of the above pleadings the following points arise for consideration :

1. Is the enquiry valid ?
2. Are the findings sustainable ?
3. Is the punishment proper ?

6. The evidence consists of Exts. M1 enquiry file alone.

7. **Point No. 1** :—Though a contention was raised in the claim statement that no proper and impartial enquiry complying with the principles of natural justice was conducted, at the time of argument the learned counsel for the workman conceded that the claimant was given sufficient opportunity in the enquiry to participate and defend. Hence he does not question the validity of enquiry any more.

8. **Point No. 2** :—As per Ext. M2 memo of charges 3 charges were leveled against the workman : (1) breach of trust (2) dereliction of duty and (3) causing wrongful loss to Oman Air. The learned counsel for the workman has confined his argument to perversity of findings alone. Since the enquiry is proper and validity is not questioned the scope of challenging the findings is limited. Unless there is absolutely no material on record the findings cannot be assailed. The enquiry officer is a lawyer. He has meticulously discussed and analysed the evidence on

record and has systematically dealt with points of dispute in the enquiry report.

9. It is mentioned in the report that though in the written statement of defence (Ext. M-10) the workman had admitted that he was appointed as Cargo Service Agent of Oman Air, during enquiry an attempt was made to show that he was not a cargo service agent. However the enquiry officer found that Exts. M6 and M-10 documents as well as the oral testimony of DW1 (workman) prove that he was a cargo service agent of Oman Air. That apart in para 3 of the claim statement it is admitted that the management had appointed him as cargo service agent w.e.f. 1-7-1998, though he contends that no duties or responsibilities were assigned to him. Hence he had to follow the practice and procedure prevalent at that time. It is admitted by the management that airway bill is prepared by IATA Cargo Agents. But the workman has to cross check the weight written in the airway bills after taking weight again and ensure the correctness of the weight. If there is any difference he has to get the airway bills corrected then and there and then alone he should subscribe his signature in the airway bills. According to the workman one Sri. Kannan of M/s. R L Travels (agent of Oman Air) used to take weight and his duty was to make random checking. Due to pressure of work he was able to make random checking only twice a week. Exts. M6 and M10 prove that the workman was entrusted with the duty of monitoring and verifying the weight of cargo and signing the airway bills. Sri. Kannan was not an employee of Oman Air but an employee of M/s. R L Travels. The workman was not able to show that he was authorized to depute some one else to do the work of monitoring cargo. The Enquiry Officer rejected his case that his duty was to do random checking.

10. It was submitted by the learned counsel for the workman that the management, while assessing the loss during the period 2004-2005, had not considered many days of his absence from duty and had also not taken into consideration the stand by cargo and off loaded cargo. It is also contended that the weight of cargo recorded by IC security staff in "IC Cargo X-ray Log Book" was not taken into consideration by the Enquiry Officer. The attempt of the management was to get insurance amount somehow

11. The management had assessed the loss provisionally at Rs. 91,17,183 due to recording of less weight of cargo than actual in the Airway bills during the period January 2004 to August 2005. It is contended by the learned counsel for the workman that the workman was not on duty during the entire period of 605 days in 2004-2005 due to leave, holidays and weekly off. He was absent during this period for 270 days. It was not proper for the management to assess the loss during the entire period as if it was caused by the workman. However the Enquiry Officer has not recorded any finding with regard to the quantum of loss. Assessment is only provisional and was

recorded by the management in the charge sheet. The Enquiry Officer has only found that the acts of the workman had caused revenue loss to the management and he has not fixed the quantum. It is specifically mentioned in the charge sheet that on spot checking on 23rd and 24th August, 2005 the management had found that there was unmanifested cargo of 1240 Kgs. and 1145 Kgs. respectively. The discrepancy with regard to the weight of cargo on those two days alone is sufficient to say that the workman is guilty of the charges.

12. The next contention of the learned counsel for the workman that weight recorded by Kerala State Industrial Enterprises (KSIE) does not reflect actual weight of cargo and therefore it was not proper for the Enquiry Officer to rely on the weight check report of KSIE. According to him the KSIE records every piece of cargo brought to the airport irrespective of stand by cargo or off loaded cargo. Hence according to him loss assessed based on KSIE weight check report cannot be correct and acceptable. MW3 is Airport officer of Oman Air. He stated that the weight check report of KSIE contains only weight of confirmed cargo. The confirmed cargo does not include stand by cargo or off loaded cargo. Besides Oman Air again makes manual check of weight of cargo and if any discrepancy is found either in Airway bills or in KSIE weight check report it is corrected at once. Thereafter the KSIE weight check report, airway bills and manual weight check report of Oman Air are cross checked. The Enquiry Officer recorded that KSIE being a Government institution the weight recorded by it is presumed to be correct unless the contrary is proved. Ext. D1 is the KSIE weight check report. Ext. M9 is the spot check report. Ext. D-12 are the Oman Air Airway bills and Ext. M8 is the internal audit report. The weight of cargo shown in Ext. D-12 airway bills did not tally with the KSIE weight check report of 23rd and 24th August, 2005. Weight shown in airway bills was less than what was found on spot checking and shown in Ext. M9 spot check report. The discrepancy is pointed out in the internal audit report Ext. M8. Besides there is admission by the workman in Ext. M6 that he could not monitor the weight of cargo on 23rd and 24th August, 2005 which ended in the discrepancy. On those two days the weight check duty was entrusted to Mr. Kannan due to time constraints. He also apologises for lack of supervision on his part. In the light of this evidence the Enquiry Officer found that a reduced weight of cargo was recorded in Airway bills on 23rd and 24th August, 2005 and the workman had failed to monitor, check and ensure correctness of the weight of cargo.

13. It was also contended by the learned counsel for the workman that the weight of cargo recorded by IC security staff in IC cargo X-ray Log Book was tallying with the weight of cargo recorded by Kannan. However the Enquiry Officer did not rely on IC Cargo X-ray Log Book. I have already mentioned that the Enquiry Officer found the weight check report of KSIE more reliable being a

government institution. The defence was not able to point out what was the discrepancy in the weight recorded by KSIE on 23rd and 24th August, 2005. Besides the KSIE weight check report, there was the manual weight check report of Oman Air. The weight shown in those reports tallied. But the weight in airway bills of 23rd and 24th August, 2005 did not tally with KSIE report as well as manual weight check report of Oman Air. It is not shown by the workman that in 'IC Cargo X-ray Log Book' only the cargo transported (on loaded) is recorded and not the entire cargo brought to the airport. Even if the IC cargo X-ray Log Book is not relied on by the Enquiry Officer, that cannot make the finding perverse in the light of Ext. M6 admission by the workman and other records already referred. It was contended by the learned counsel for the workman that Ext. M6 is not a voluntary statement, but compelled one at the instance of Air Port Officer of Oman Air (MW3). This case of the workman was rejected by the Enquiry Officer vide para-17 of enquiry report. The evidence of MW3 dislodge this case of the workman. Besides there is no defence evidence to substantiate the contention of the delinquent.

14. It was then contended that the attempt of the management is to claim insurance on the ground of alleged loss. With that in view a criminal complaint was filed before police. If more remedies than one is available to the management there is nothing wrong in resorting to both and that has nothing to do with the findings arrived on the basis of evidence.

15. It was lastly contended by the learned counsel for workman that Sri. Kannan who might have exploited the absence of the workman in manipulating the weight of cargo, was not examined in the enquiry and he is a material witness. But it is found by the Enquiry Officer that as per the records and evidence Sri. Kannan was not an employee of Oman Air and he was not entrusted with the duty of monitoring the cargo 'weight'. Moreover it is for the management to decide its witnesses in the enquiry. The defence could have cited him as a witness on defence side.

16. The evidence discussed above is sufficient to find that the workman is guilty of the charges. However as per report there are more materials than what are pointed out in the foregoing paragraphs. In view of this position the contention regarding perversity of findings is unacceptable and unsustainable. There is enough and more evidence pointing the finger at the workman.

17. **Point No. 3 :** The punishment imposed is removal from service. According to the learned counsel for the workman, the claimant has put in 13 years of service and there were no complaints until the incident. After the removal from service he is ~~without~~ employment. The punishment is excessive and disproportionate to the gravity of the offence. I am not able to agree with the learned counsel.

18. There is evidence to show that recording of less weight of cargo was going on for quite sometime during the period 2004-2005. The management has suffered loss on account of showing reduced weight of cargo in Airway bills. The misconduct of breach of trust and dereliction of duty cannot be treated lightly. It is a gross misconduct and the punishment necessarily should be commensurate with the gravity of the misconduct. Considering the circumstances I don't think that any leniency in punishment is warranted in this case. The management disputes that the workman is unemployed. It is pointed out by the management that the claim statement is filed through power of attorney which itself would show that the workman is employed elsewhere. At any rate unemployment is not a ground to reduce the punishment.

In the result an award is passed finding that the action of the management in removing the workman from service w.e.f. 1-11-2006 is legal and justified and he is not entitled for any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 23rd day of June, 2010.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Workman - Nil.

Witnesses for the Management - Nil.

Exhibit for the Workman - Nil.

Exhibit for the management -

M1 - Enquiry File.

नई दिल्ली, 14 सितम्बर, 2010

का. आ. 2522.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बड़ौदा राजस्थान ग्रामीण बैंक, अजमेर के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 15/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/64/89-आई आर (ची-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 14th September, 2010

S.O. 2522.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/90)

of the Central Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the management of Baroda Rajasthan Gramin Bank, Ajmer and their workman, received by the Central Government on 14-9-2010.

[No. L-12012/64/89-IR (B-1)]
RAMESH SINGH, Desk Officer

अनुबन्ध

केन्द्रीय ओद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 15/90

रैफरेंस : केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/64/89-आई. आर. (ची. 1) दिनांक 8-2-1990

श्री मदन मोहन गुप्ता जरिये महासचिव, ग्रामीण बैंक एम्प्लाईज यूनियन, यूनिट अरावली क्षेत्रीय ग्रामीण बैंक, ईंदिरा कालीनी, गगर टाउन, सर्वाई माधोपुर। . . . प्राप्ती

बनाम

अध्यक्ष, बड़ौदा राजस्थान ग्रामीण बैंक, अजमेर। . . . अप्राप्ती

उपस्थित

पीठासीन अधिकारी : श्री जी. के. गौड़, आर. एच. जे. प्र२

प्रार्थी की ओर से : श्री आर. सी. जैन

अप्रार्थी की ओर से : श्री रूपिन काला

दिनांक अवार्ड : 6-7-2010

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली ने उपर्युक्त अधिसूचना के जरिये निम्न आशय का विवाद इस न्यायाधिकरण को अधिनिर्णय हेतु निर्देशित किया है।

“Whether the action of the management of Aravali Kshetriya Gramin Bank, Sawai Madhopur in not considering Shri Madan Mohan Gupta, daily wages workman for re-employment under Section 25-II of the Industrial Disputes Act, 1947 while engaging fresh hands is justified ? If not, to what relief the concerned workman is entitled ?”

2. विवाद जो भेजा गया उसके संबंध में प्रार्थी संद वरी ग्रामीण स्टेटमैंट ऑफ ब्लेम पेश हुआ जिसमें बताया गया कि श्रमिक श्री मोहन गुप्ता की प्रथम नियुक्ति विपक्षी संस्थान में 6-6-1986 की बाटोदा शाखा में मैसेन्जर के पद पर दैनिक वेतन पर हुई थी। क्योंकि वह निरन्तर विपक्षी बैंक में कार्य करता रहा लेकिन अचानक दिनांक 15-3-87 को विपक्षी ने अकारण ही प्रार्थी श्रमिक को सेवामुक्त कर दिया। सेवामुक्त करने से पूर्व उसे न तो कोई नोटिस दिया और न ही नोटिस के एवज में एक माह का वेतन तथा न ही छठनी मुआवजा।

दिया। विपक्षी बैंक में प्रार्थी श्रमिक से कनिष्ठ श्रमिक प्रार्थी की सेवा-मुक्ति के समय भी कार्यरत थे तथा नये श्रमिकों को भी भर्ती किया गया था। इस प्रकार विपक्षी संस्थान ने औद्योगिक विवाद अधिनियम, 1947 (जिसे आगे मात्र अधिनियम लिखा जायेगा) की धारा 25-एवं व 25-जी का उल्लंघन किया जाकर तथा राजस्थान औद्योगिक विवाद अधिनियम के नियम 77 व 78 का भी उल्लंघन किया। इस प्रकार अप्रार्थी ने श्रमिक को दिनांक 15.3.87 से अनुचित व अवैध तरीके से सेवामुक्त किया है, अतः प्रार्थी संघ की प्रार्थना है कि श्रमिक को निरन्तर सेवा में मानते हुए पुनः सेवा में सभी आर्थिक व अन्य लाभ सहित बहाल किया जावे।

3. विपक्षी बैंक ने क्लेम का जवाब प्रस्तुत कर प्रार्थी संघ के क्लेम का विरोध करते हुए प्रकट किया कि अप्रार्थी बैंक औद्योगिक संस्थान की परिभाषा में नहीं आता, अतः रैफैसेंस अवैध है। श्रमिक मदन मोहन गुप्ता को विपक्षी बैंक द्वारा अंशकालीन दैनिक वेतन भोगी भजदूर के रूप में रखा गया था, उसका कोई मासिक वेतन निर्धारित नहीं था। जिस दिन श्रमिक कार्य करता था उस दिन के पैसे उसे दे दिये जाते थे उसे कोई नियुक्ति पत्र नहीं दिया गया था। चूंकि श्री गुप्ता बैंक द्वारा निर्धारित योग्यता नहीं रखते थे अतः बैंक द्वारा उन्हें नियुक्ति नहीं किया जा सकता और जब नियुक्ति ही नहीं हुई तब सेवा मुक्ति का प्रश्न ही पैदा नहीं होता। दैनिक वेतन पर रखे व्यक्ति की सेवा समाप्ति छंटनी की परिभाषा में नहीं आती और चूंकि श्रमिक अंशकालीन दैनिक भजदूरी पर था अतः सीनियर जूनियर का प्रश्न ही नहीं उठता, प्रार्थी श्रमिक ने दिनांक 5-10-86 से काम पर आना बंद कर दिया था, इस प्रकार बैंक द्वारा धारा 25-जी व 25-एवं अर्थवा नियम 77-78 के प्रावधानों का कोई उल्लंघन नहीं किया गया है। प्रार्थी श्रमिक किसी राहत का अधिकारी नहीं है अतः क्लेम खारिज किया जावे।

4. यहां यह उल्लेख करना मैं आवश्यक समझता हूं कि केन्द्र सरकार द्वारा भेजे गये इस निर्देश में मेरे पूर्व पीठासीन अधिकारी द्वारा दिनांक 10 जनवरी, 1994 को श्रमिक के पक्ष में अवार्ड पारित कर दिया गया था। उक्त अवार्ड को विपक्षी बैंक ने माननीय राजस्थान उच्च न्यायालय में सिविल रिट पिटीशन सं. 3306/1994 के जरिये चुनौती दी जो रिट दिनांक 26-4-2001 के आदेश से खारिज हो गई एवं इस न्यायाधिकरण के अवार्ड दिनांक 10-1-94 को यथावत रखा गया। माननीय उच्च न्यायालय के आदेश दिनांक 26-4-2001 के विरुद्ध विपक्षी बैंक ने माननीय उच्च न्यायालय की खण्ड पीठ के समक्ष स्पेशल अपील प्रस्तुत की और उक्त अपील के निर्णय दिनांक 13 अप्रैल, 2010 के द्वारा प्रकरण चुनौती के साथ रिमाण्ड किया गया है कि न्यायाधिकरण सुख्ती से केन्द्र सरकार द्वारा भेजे गए आदेश की टर्मस 30एफ रैफैसेंस के अन्तर्गत एवं तीन माह के अन्दर ही अवार्ड पारित करे। माननीय उच्च न्यायालय द्वारा निर्णय में ही न्यायाधिकरण के समक्ष दोनों पक्षों को उपस्थित होने हेतु दिनांक 18-5-2010 निश्चित की गई है।

5. मैंने माननीय उच्च न्यायालय द्वारा पारित निर्णय, मेरे पूर्व पीठासीन अधिकारी द्वारा पारित अवार्ड एवं पक्षकारान द्वारा जो साक्ष

न्यायाधिकरण के समक्ष आई है, का ध्यानपूर्वक अवलोकन व अध्ययन किया है। साक्ष में प्रार्थी श्रमिक मदन मोहन गुप्ता स्वयं का शपथ पत्र प्रस्तुत हुआ है जिससे विपक्षी के विट्ठान प्रतिनिधि ने जिरह की है तथा अप्रार्थी बैंक की ओर से श्री महेन्द्र कुमार शाह का परीक्षण करवाया गया है।

6. उभय पक्ष के प्रतिनिधिगण को बहस सुनी गई। प्रार्थी प्रतिनिधि के तर्क है कि प्रकरण में यह स्वीकृत तथ्य है कि श्रमिक मदन मोहन गुप्ता विपक्षी बैंक में संदेशवाहक के पद पर दैनिक वेतन पर नियुक्त था तथा उसने बैंक में 6-6-86 से 15-3-87/1-10-86 तक कार्य किया। उनका तर्क है कि दिनांक 15-3-87 का प्रार्थी श्रमिक को हटा दिया जबकि उसका सेवा से हटाने के बाद विपक्षी बैंक ने अन्य संदेश वाहकों को भी नियुक्ति दी तथा वरिष्ठता सूची प्रदर्श डब्ल्यू-4 की क्रम सं. 40 एवं 41 पर जो श्री शंकरलाल रैगर व नारायण लाल कोली का नाम दर्शाया गया है उनकी नियुक्ति तिथि भी 6-6-86 ही थी किन्तु उन्हें सेवा से नहीं हटाया गया बल्कि अगस्त 1989 में उन्हें नियमित भी किया गया है। प्रतिनिधि का तर्क है कि श्रमिक को हटाने के बाद नये श्रमिकों की भर्ती की गई है, इस तथ्य को विपक्षी बैंक के गवाहन ने अपने प्रति परीक्षण में स्वीकार किया है। ऐसे में उनका तर्क है कि अधिनियम की धारा 25-एवं के प्रावधानों के अनुसार विपक्षी बैंक के लिए यह आज्ञापक था कि नये श्रमिकों की नियुक्ति से पहले श्री मदन मोहन गुप्ता के नाम पर विचार किया जाता व उसे नियुक्ति दी जाती जो बैंक द्वारा नहीं किया गया है, अतः प्रकरण में धारा 25-एवं के प्रावधानों का उल्लंघन स्पष्ट है और प्रार्थी यूनियन का क्लेम स्वीकार किया जाकर इस आशय का अवार्ड पारित किया जाए कि प्रार्थी उस तिथि से ही सेवा में बहाल होने का व समस्त बकाया वेतन व अन्य लाभ प्राप्त करने का अधिकारी है जबसे सर्वश्री राम खिलाड़ी मीणा, हरी सिंह, पृथ्वी राज व सीताराम मीणा को विपक्षी बैंक में नियुक्ति दी गई। प्रार्थी प्रतिनिधि ने अपने समर्थन में निम्न न्याय-निर्णय प्रस्तुत किए हैं :—

1. 2009 (1) डब्ल्यू. एल. सी. 307 माननीय राज. उच्च न्यायालय
2. 2007 (5) डब्ल्यू. एल. सी. 446 माननीय राज. उच्च न्यायालय
3. 1999 ए. आई. आर. - एस. सी. डब्ल्यू. 694 माननीय राज. उच्च न्यायालय
4. 2008 (119) एफ. एल. आर. 398 माननीय राज. उच्च न्यायालय
5. 2010 (124) एफ. एल. आर. 700 माननीय राज. उच्च न्यायालय
6. 1994 (111) एल. एल. जे. 848 माननीय गुजरात उच्च न्यायालय
7. 2009 लेब. आई. सी. 63। माननीय पंजाब एवं हरियाणा उच्च न्यायालय
8. 2003 डब्ल्यू. एल. सी. (यू. सी.) 727 माननीय राज. उच्च न्यायालय

9. 2005 एस. सी. सी. (एल. एण्ड सेस) 785 माननीय सर्वोच्च न्यायालय
10. 2010 लेब. आई. सी. 1039 माननीय सर्वोच्च न्यायालय
11. 1970 (20) एफ. एल. आर. । माननीय सर्वोच्च न्यायालय
12. 1979 लेब. आई. सी. 1192 माननीय सर्वोच्च न्यायालय
13. 1984 (48) एफ. एल. आर. 219 माननीय सर्वोच्च न्यायालय

7. इसके विपरीत बैंक के प्रतिनिधि के तर्क है कि प्रार्थी श्रमिक को बैंक द्वारा अंशकालीन दैनिक मजदूरी पर रखा गया था तथा जिस दिन वह मजदूरी पर कार्य करता था उसी दिन की मजदूरी उसे दी जाती थी, श्री गुप्ता का कोई मासिक वेतन नहीं था न ही उसे कोई नियुक्ति आदेश दिया गया था। उनका तर्क है कि दैनिक मजदूरी पर रखे श्रमिकों को बैंक में नियमित होने का अधिकार नहीं होता, नियमित नियुक्ति के लिए बैंक की एक निर्धारित प्रक्रिया है तथा श्री गुप्ता बैंक कर्मचारी की परिभाषा में नहीं आते हैं। अप्रार्थी का यह भी तर्क है कि श्री गुप्ता भारत सरकार द्वारा निर्धारित योग्यता नहीं रखते इसलिए भी उन्हें बैंक द्वारा नियुक्त किया जाना संभव नहीं है। प्रतिनिधि का यह भी तर्क है कि बैंक के गवाह श्री महेन्द्र कुमार शाह ने अपनी साक्ष्य से ये तथ्य प्रमाणित किया है कि उनको दैनिक वेतन पर लगाया था और कोई नियुक्ति पत्र नहीं दिया था, शुरू में यही शर्त थी कि जिस दिन काम करेंगे उस दिन वेतन मिलेगा तथा उनका कोई लियन बैंक में नहीं रहेगा। प्रतिनिधि का यह भी तर्क है कि विपक्षी बैंक के गवाह ने अपनी साक्ष्य में यह भी प्रमाणित किया है कि प्रार्थी श्री गुप्ता ने बैंक में दिनांक 6-6-86 से 4-10-86 तक व 23-2-87 से 14-3-87 तक कार्य किया तथा पहले दिनांक 5-10-86 से व बाद में 15-3-87 को स्वयं ही काम पर आना बंद कर दिया। प्रतिनिधि का आगे तर्क है कि अंशकालीन दैनिक वेतन श्रमिकों के जूनियर सीनियर होने का प्रश्न ही पैदा नहीं होता तथा विपक्षी बैंक में प्रथम बार 1-7-87 से अंशकालीन संदेशवाहकों की नियुक्ति नाबाई के परिपत्र दिनांक 7-5-87 के परिपेक्ष्य में की गई थी किन्तु उस समय प्रार्थी श्रमिक बैंक में कार्यरत नहीं था वह सेवा छोड़ चुका था तथा वह उक्त पद की योग्यता नहीं रखता था इसलिए उसे नियमित करने का व नये श्रमिकों की नियुक्ति के समय उसे बुलाने का प्रश्न ही पैदा नहीं होता। इस प्रकार उनके तर्क हैं कि बैंक ने अधिनियम के किसी प्रावधान की कोई अवहेलना नहीं की है और प्रार्थी का क्लेम खारिज होने योग्य है। अप्रार्थी ने अपने समर्थन में निम्न न्याय-निर्णय प्रस्तुत किए हैं :-

1. 2004 (101) एफ. एल. आर. 219 एस. सी. पैरा-37 मुकानंद लि. बनाम मुकानंद स्टाफ एण्ड ऑफिसर्स एसोसियेशन।
2. 2002 (2) डब्ल्यू. एल. एन. 671 सुरेशचंद बनाम जी. एम. राज. स्टेट बृज
3. डब्ल्यू. एल. सी. राज. यू. सी. 2003, 424 महावीर कंडक्टर बनाम नंदकिशोर
4. 2008 (116) एफ. एल. आर. 346 राज. उच्च न्यायालय तरसेन सिंह बनाम जज लेबर कोर्ट व अन्य

5. 2000 (86) एफ. एल. आर. 134 द मैनेजमेंट मै. द रामवार्ग पैलेस होटल लि., जयपुर बनाम स्टेट ऑफ राज.।
6. 2003 (4) एस. सी. सी. 161 बोदर सिंह व अन्य बनाम निकाल सिंह।
7. 2004 (101) एफ. एल. आर. 219 एस. सी. मुकानंद लि. बनाम मुकानंद स्टाफ एण्ड ऑफिसर्स एसोसियेशन।
8. शार. एल. डब्ल्यू. 2002 (3) राज. 1366 यूनियन चैम्प एम्प्लॉयज एसोसियेशन बनाम यूनियन बैंक ऑफ इंडिया।
9. 2007 (1) एस. सी. सी. 408 इंडियन इंडस्ट्रीज एम्प्लॉयज बनाम वर्कमैन इंडियन इंडस्ट्रीज एम्प्लॉयजस्ट्रिकल्स।
10. 2006 (5) एस. सी. सी. 764 हुडा बनाम जगभाल सिंह।
11. 2005 (5) एस. सी. सी. 122 माध्यमिक शिक्षा परिषद यू. पी. बनाम अनिल कुमार चिंहा व अन्य।
12. 2006 (5) एस. सी. सी. 122 यू. बी. बी. जे. बनाम आम प्रकाश शर्मा।
13. 1990 (60) एफ. एल. लॉ. 267 राज. ही. जी. रामचंद्र यादव एण्ड संस बनाम आर. एस. आर. टॉ. सी. व अन्य।
14. 2002 (3) एस. सी. सी. 25 रेंज फोरेस्ट ऑफिसर बनाम एम. टी. हडिमानी।
8. मैंने उभय पक्ष द्वारा प्रस्तुत तर्कों पर मनन किया व पत्रावली का आध्योपान्त अध्ययन किया। साक्ष्य के अवलोकन से प्रकट होगा है कि श्रमिक भदन मोहन गुप्ता ने अपने वेतन के कथनों में कहा है कि उसने विपक्षी बैंक में दिनांक 6-6-86 से 15-3-87 तक नियुक्ति कार्य किया जबकि अपने शपथ पत्र में दिनांक 6-6-86 से 1-10-86 तक ही निरन्तर कार्य करना बताया है। इसके विपरीत विपक्षी बैंक ने गवाह श्री महेन्द्र कुमार शाह ने अपने शपथ पत्र में स्पष्ट ऑफिसर किया है कि प्रार्थी श्रमिक ने बैंक में पूर्व में दिनांक 6-6-86 में 4-10-86 तक कार्य किया तथा 5-10-86 से काम पर आना बंद कर दिया व बाद में दिनांक 23-2-87 से 14-3-87 तक काम किया। प्रार्थी को जो भुगतान किया गया है उसके बातचर्च सभी पत्रावली पर उपलब्ध हैं जिसमें वर्ष 1987 के बातचर्च भी हैं। ऐसा प्रतीत होता है कि पहले श्रमिक को दैनिक वेतन भोगी संदेशवाहक के रूप में 6-6-86 को लगाया गया व प्रदर्श डब्ल्यू-6 द्वारा सेवा से हटाया गया है और पुनः उसे दिनांक 23-2-87 को लगाया गया है उसके बाद का कोई सेवा मुक्ति आदेश यद्यपि पेश नहीं हुआ है तथापि रिकार्ड में व अप्रार्थी की साक्ष्य से यह प्रमाणित है कि प्रार्थी श्रमिक ने अंत में विपक्षी बैंक की बाटोता शायदी में दैनिक वेतन पर संदेशवाहक के पद पर दिनांक 23-2-87 तक कार्य किया है। यह भी प्रमाणित है कि प्रार्थी श्रमिक को सेवा पृथक किया गया तब उससे कनिष्ठ संदेशवाहक बैंक में कार्य कर रहे थे तथा उसे सेवा से हटाने के बाद अन्य व्यक्तियों को भी नियुक्ति दी गई है जैसा कि विपक्षी बैंक के गवाह श्री महेन्द्र कुमार शाह ने प्रति परंपराम

में यह स्वीकार किया है कि मदन मोहन गुप्ता तथा रमेश चंद गुप्ता के बाद बाटोता शाखा में दैनिक वेतन भोगी कर्मचारी के रूप में सर्वश्री राम खिलाड़ी, हरीसिंह, पृथ्वीराज व सीताराम को लगाया गया था।

9. अप्रार्थी के साक्षी महेन्द्र कुमार शाह ने अपने प्रति परीक्षण में यह स्वीकार किया है कि प्रदर्श डब्ल्यू-4 सूची 67 श्रमिकों की है जिन्हें आरंभ में अंशकालीन दैनिक वेतन भोगी कर्मचारी के रूप में रखा गया था तथा गवाह ने प्रतिपरीक्षण में यह गवाह यह भी स्वीकार करता है कि इस सूची के क्रमांक 40 व 41 में वर्णित शंकरलाल रैगर व नारायण लाल कोहली की प्रथम नियुक्ति दैनिक वेतन भोगी कर्मचारी के रूप में ही हुई थी। विपक्षी के गवाह ने यह भी प्रति-परीक्षण में स्वीकार किया है कि प्रार्थी का चयन इसलिए नहीं किया गया कि वह परिपत्र की तिथि 7-5-87 को कार्यरत नहीं था। प्रार्थी यूनियन ने यह भी प्रमाणित किया है कि श्रमिक को हटाने के बाद रामखिलाड़ी मीणा, हरी सिंह, पृथ्वी राज व सीताराम को दिनांक 17-3-87, 20-4-87, 18-8-87 व 3-11-87 को क्रमशः नौकरी पर रखा गया है तथा विपक्षी बैंक के गवाह द्वारा भी यह तथ्य स्वीकृत है कि प्रार्थी श्रमिक को हटाने के बाद अन्य श्रमिकों को बैंक में संदेशवाहक के पद पर नियुक्त किया गया था, ऐसे में मेरे विनम्र मत में धारा 25-एच अधिनियम के प्रावधान इस प्रकरण पर पूरी तरह लागू होते हैं तथा विपक्षी बैंक पर यह आज्ञापक था कि बैंक में नये श्रमिकों को नियुक्त करने से पहले प्रार्थी श्री मदन मोहन गुप्ता को कन्सीडर किया जाता, लेकिन ऐसा नहीं किया गया है, अतः मेरे विनम्र मत में धारा 25-एच अधिनियम को स्पष्ट अवहेलना बैंक द्वारा किया जाना प्रमाणित है।

10. विपक्षी बैंक के प्रतिनिधि के इस तर्क का जहां तक प्रश्न है कि प्रार्थी श्रमिक संदेशवाहक के पद की योग्यता नहीं रखता था इस संबंध में न तो विपक्षी बैंक द्वारा संदेशवाहक के पद के लिए कोई निहित योग्यता हो, इस संबंध में कोई साक्ष्य प्रस्तुत की गई है न ही यह बताया है कि श्रमिक किस प्रकार योग्य नहीं था।

11. विपक्षी बैंक के गवाह ने अपने प्रति परीक्षण में यह भी बताया है कि प्रदर्श डब्ल्यू-4 में वर्णित सूची के क्रमांक 40 व 41 को छोड़कर अन्य सभी को अंशकालीन दैनिक वेतन भोगी के पद पर नियुक्त किया गया था तथा उस समय नियोजन कार्यालय से नाम नहीं मंगवाये गये थे। प्रदर्श डब्ल्यू-4 जो कि नियमित संदेशवाहकों की वरिष्ठता सूची है, उसके अवलोकन से मैंने पाया कि श्री शंकर लाल रैगर एवं श्री नारायण लाल कोहली, जिनकी नियुक्ति तिथि भी 6-6-86 ही दर्शाई गई है, को दिनांक 25-8-89 एवं दिनांक 26-8-89 को क्रमशः नियमित किया गया है जबकि प्रार्थी श्रमिक को सेवा से हटाने के बाद अन्य श्रमिकों की नियुक्ति करते समय प्रार्थी श्रमिक को कन्सीडर नहीं किया गया है। मेरे विनम्र मत में यदि श्रमिक को धारा 25-एच अधिनियम के तहत कन्सीडर किया जाता तो नाबार्ड के परिपत्र के तहत उसका भी नियमितीकरण हो सकता था किन्तु ऐसा नहीं करने से प्रार्थी श्रमिक सेवा से वंचित रहा है जो अधिनियम के प्रावधानों के विपरीत है।

12. अप्रार्थी प्रतिनिधि द्वारा प्रस्तुत न्याय दृष्टातां का भी मैंने सम्मान अध्ययन किया जिनसे मैं सहमत हूं किन्तु प्रत्येक प्रकरण के तथ्य व परिस्थितियां भिन्न होने से अप्रार्थी प्रतिनिधि को इनसे कुछ लाभ नहीं पहुंचता।

13. उपरोक्त विवेचन के आधार पर मैं प्रार्थी का कलंम स्वीकार होने योग्य पाता हूं और प्रकरण में निम्न अवार्ड पारित किया जाता है :

“अध्यक्ष, बड़ौदा राजस्थान ग्रामीण बैंक, अजमेर के प्रबंधन द्वारा नये कर्मचारी नियुक्त करते समय श्री मदन मोहन गुप्ता, दैनिक वेतन भोगी श्रमिक को धारा 25-एच अधिनियम के अन्तर्गत पुनर्नियोजन हेतु कन्सीडर नहीं किया जाना उचित एवं वैध नहीं है। प्रार्थी उसी दिनांक से उसके पद पर नियोजित होने का अधिकारी है जिस दिनांक से उससे कनिष्ठ श्रमिक राम खिलाड़ी मीणा व अन्य को नियोजित किया गया है। चूंकि प्रार्थी श्रमिक ने सहायक श्रम आयुक्त (केन्द्रीय) कोटा के यहां विवाद दिनांक 4-2-89 को उठाया है अतः सेवा मुक्ति की दिनांक से 4-2-89 तक का वेतन श्रमिक पाने का अधिकारी नहीं है, दिनांक 4-2-89 से वह समस्त वेतनमय सेवा की निरन्तरता से प्राप्त करने का अधिकारी है।”

14. अवार्ड आज दिनांक 6-7-2010 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जी. के. गौड़, न्यायाधीश

नई दिल्ली, 15 सितम्बर, 2010

का. आ. 2523.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओरियेन्टल बैंक ऑफ कॉमर्स के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 28/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/196/94-आई आर (बी-II)]

पुष्पेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th September, 2010

S.O. 2523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/94) of the Industrial Tribunal, Jaipur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Oriental Bank of Commerce and their workmen, which was received by the Central Government on 14-9-2010.

[No. L-12012/196/94-IR (B-II)]
PUSHPENDER KUMAR, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 28/94

रैफरेंस :

केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/196/94-आई.आर (बी-2) दिनांक 21-10-1994

श्री तेज सिंह पुत्र श्री बखावर सिंह जाति राजपूत निवासी गोगामण्डी चक 112 डी.बी.एन. तहसील नोहर, जिला श्रीगंगानगर ।

... प्रार्थी

बनाम

मैनेजर, आरियेन्टल बैंक ऑफ कॉमर्स नोहर जरिये डिस्ट्री जनरल मैनेजर, ओरियेन्टल बैंक ऑफ कॉमर्स, रीजनल ऑफिस द्वितीय मंजिल, आनन्द भवन, संसार चन्द्र रोड, पोस्ट बॉक्स नं. 343, जयपुर ।

... अप्रार्थी

उपस्थित

पीटासीन अधिकारी : श्री जी. के. गोड़, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री कान सिंह राठौड़

अप्रार्थी की ओर से : कोई उपस्थित नहीं

दिनांक अवार्ड : 15-3-2010

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली ने 'उपरोक्त अधिसूचना के जरिये निम्न आशय का विवाद इस न्यायाधिकरण को अधिनियम हेतु निर्देशित किया है :

"Whether the action of the management of Oriental Bank of Commerce, Jaipur in terminating the services of Shri Tej Singh, daily waged workman, w.e.f. 26-8-1992 is justified? If not, what relief is the said workman entitled to?"

2. प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ ब्लेम पेश किया गया जिसके संक्षेप में तथ्य इस प्रकार हैं कि प्रार्थी अप्रार्थी बैंक की नोहर शाखा में दिनांक 20-8-1991 से दैनिक वेतन भोगी चतुर्थ श्रेणी कर्मचारी के रूप में नियुक्त हुआ था। नियुक्ति तिथि से ही श्रमिक मन्तव्य व ईमानदारी से कार्य करता आ रहा था व उसका कार्य सदैव संतोषजनक रहा था। अप्रार्थी बैंक ने अचानक मौखिक आदेश से दिनांक 26-8-1992 को उसे कार्य पर लेने से इन्कार कर दिया जिसका कोई कारण नहीं बताया। प्रार्थी का अभिकथन है कि उसने सेवापुक्ति से पूर्व एक वर्ष में 240 दिन तक लगातार कार्य किया है कि सेवा पुक्ति से पूर्व धारा 25-एफ, जी व एच औद्योगिक विवाद अधिनियम (जिसे आगे मात्र अधिनियम लिखा जायेगा) के प्रावधानों की पालना नहीं की अर्थात् न तो उसे एक माह का नोटिस अथवा वेतन व छन्ती का मुआवजा दिया न ही कोई वरिष्ठता सूची निकाली

तथा उससे कनिष्ठ श्रमिक अभी भी अप्रार्थी बैंक में कार्य कर रहे हैं व उसके बाद भी नये श्रमिकों को नियुक्ति दी गई है किन्तु उसे सेवा का अवसर नहीं दिया। प्रार्थी से बैंक में नियमित चपरासी का कार्य लिया जाता था जैसे लेजर बाहर निकालना, कर्मचारियों व अधिकारियों को पानी पिलाना, रजिस्टर एक स्थान से दूसरे स्थान पर पंहुचना, डाक लाना, बंडल बांधना, वाकुचर सिलना आदि सभी कार्य उससे लिया जाता था और यह कार्य स्थाई प्रकृति का है किन्तु फिर भी प्रार्थी श्रमिक को सेवा मुक्ति किया जाना अनुचित व अवैध है। प्रार्थी की प्रार्थना है कि उसका सेवा मुक्ति आदेश निरस्त किया जावे एवं उभ पुराने समस्त वेतन व अन्य लाभ सहित सेवा में बहाल करने का अवार्ड पारित किया जावे।

3. अप्रार्थी ने ब्लेम का जवाब पेश कर प्रार्थी भक्ति आपनियों के बतौर बताया कि प्रार्थी को अप्रार्थी द्वारा पानी भरने के कार्य हेतु १० रुपये प्रतिदिन की दर से टेके पर कार्य करने हेतु रखा गया था। पानी भरने के बाद वह कहीं अन्यत्र काम करने के लिए स्वतंत्र था, प्रार्थी की नियमित उपस्थिति के लिए बैंक उसे बाध्य नहीं कर सकता था व ही उस पर बैंक का कोई प्रशासनिक नियंत्रण था, ऐसे में प्रार्थी ऑफ बैंक के बीच कोई श्रमिक-नियोजक का संबंध नहीं था, अतः अधिनियम के प्रावधान प्रार्थी के प्रकरण पर लागू नहीं होते। अप्रार्थी का अभिकथन है कि यह बैंक एक राष्ट्रीयकृत बैंक है जहां नियांगन नियुक्ति रोजगार कार्यालय से नाम मंगाकर व पूरी नियुक्ति प्राप्त कर अपनाने के बाद होती है। गुणावाण पर अप्रार्थी का कथन है कि प्रार्थी को बैंक द्वारा जब कोई नियुक्ति ही नहीं दी गई भाव उके पानी भरने हेतु उसे दो घंटे के कार्य के लिए रखा गया था ऐसे में मौखिक अथवा लिखित रूप से सेवा पृथक करने का प्रण नहीं हो नहीं होता, बल्कि प्रार्थी ने स्वच्छा से ही कार्य पर आना चाहा दिया। अप्रार्थी बैंक का यह भी अभिकथन है कि प्रार्थी ने एक वर्ष की अवैधि में मात्र 189 दिवस ही कार्य किया है ऐसे में धारा 25-एफ, जी, एच अधिनियम के प्रावधान लागू नहीं होते न ही नियम 76, 77 व 78 का उल्लंघन किया गया है, अतः ब्लेम खारिज होने योग्य बताया।

4. साक्ष्य में प्रार्थी ने अपना स्वयं का शपथ पत्र पेश किया है जिस पर अप्रार्थी प्रतिनिधि ने जिरह की है। बैंक की ओर से श्री गृह प्रकाश माथुर का शपथ पत्र पेश हुआ जिस पर प्रार्थी प्रतिनिधि ने जिरह की है, कुछ दस्तावेजात भी पेश हुए हैं जिसका विवेचन यथास्थान किया जायेगा।

5. मैंने उभय पक्ष की वहस सुनी, पत्रावली का अवलोकन किया। प्रार्थी प्रतिनिधि की वहस है कि प्रार्थी की नियुक्ति अप्रार्थी बैंक की नोहर शाखा में 20 रु. प्रति दिन के हिसाब से चतुर्थ श्रेणी कर्मचारी के रूप में हुई थी। प्रार्थी श्रमिक ने बैंक में लगातार में 240 दिन तक कार्य किया और अचानक उसे 26-8-92 को मौखिक आदेश से सेवा में लेने से इन्कार कर दिया गया। उनका तर्क है कि उसके नियुक्ति से पूर्व एक वर्ष में 240 दिन तक लगातार कार्य किया है कि उससे सेवा पुक्ति से पूर्व धारा 25-एफ, जी व एच औद्योगिक विवाद अधिनियम (जिसे आगे मात्र अधिनियम लिखा जायेगा) के प्रावधानों की पालना नहीं की अर्थात् न तो उसे एक माह का नोटिस अथवा वेतन व छन्ती का मुआवजा दिया गया है, न ही कोई वरिष्ठता सूची निकाली

ही वरिष्ठता सूची निकाली तथा प्रार्थी श्रमिक के बाद भी नये व्यक्तियों को नियुक्त किया है इस प्रकार अप्रार्थी ने धारा 25-एफ, जी, एवं एच के उल्लंघन में सेवा समाप्त की है जो अनुचित व अवैध है। प्रतिनिधि का तर्क है कि अप्रार्थी के गवाह श्री रवि प्रकाश माथुर ने जिरह में स्वीकार किया है कि प्रार्थी श्रमिक ने दिनांक 20-8-1991 से 26-8-1992 तक लगातार पानी भरने का कार्य किया है तथा जिरह में आगे यह भी स्वीकार किया है कि प्रार्थी पानी पिलाने का कार्य करता था। उनका तर्क है कि पानी पिलाने का कार्य मात्र दो घंटे के लिए नहीं होता बल्कि पूरे दिन का होता है साथ ही श्रमिक अन्य सभी काम जो चतुर्थ श्रेणी कर्मचारी करता है, करता था। प्रतिनिधि प्रार्थी का यह भी तर्क है कि उपस्थिति रजिस्टर तथा पर्मेंट वाउचर्स आदि दस्तावेज अप्रार्थी के कब्जे में होते हैं जिन्हें प्रार्थी द्वारा प्रार्थना पत्र प्रस्तुत करने पर अप्रार्थी को दस्तावेज प्रस्तुत करने हेतु न्यायाधिकरण द्वारा निर्देशित किया गया था किन्तु उनके द्वारा मात्र कुछ वाउचर्स एवं एक स्टेटमेंट पेश किया गया है। उक्त स्टेटमेंट में जो 189 दिवस दर्शाए गए हैं वे किस आधार पर दर्शाए गए हैं यह नहीं बताया है। इसी स्टेटमेंट में नीचे किस-किस तारीख को प्रार्थी को कितना भुगतान किया गया, यह दर्शाया गया है, किन्तु यह विवरण कहां से तैयार किया गया यह नहीं बताया है। अन्य कोई रिकार्ड अप्रार्थी द्वारा पेश नहीं किया गया है। प्रतिनिधि का तर्क है कि प्रार्थी ने 240 दिन कार्य नहीं किया इस तथ्य को प्रमाणित करने का भार अप्रार्थी पर था तथा इस संबंध में रिकार्ड भी अप्रार्थी के पास ही होता है किन्तु उनके द्वारा प्रस्तुत दस्तावेजों एवं साक्ष्य से यह प्रमाणित नहीं होता कि प्रार्थी ने 240 दिन कार्य नहीं किया हो एवं अधिनियम के प्रावधान प्रकरण पर लागू नहीं होते। इसके विपरीत प्रार्थी ने अपना शपथ पत्र प्रस्तुत किया है एवं अपने कथनों को प्रमाणित किया है। इस प्रकार प्रार्थी को अनुचित व अवैध तरीके से सेवा पृथक किया गया है जिसे अपास्त किया जाकर श्रमिक को पुनः सेवा में समस्त वेतन व अन्य लाभ सहित बहाल किये जाने का अवार्ड पारित किया जावे।

5. अप्रार्थी प्रतिनिधि के तर्क है कि प्रार्थी को 20 रुपये दैनिक वेतन पर पानी भरने के लिए रखा गया था, प्रार्थी दो घंटे आता था और चला जाता था उस पर किसी प्रकार का कोई नियंत्रण व सुपरवीजन नहीं था, चूंकि वह बैंक का कर्मचारी नहीं था और ठेके पर कार्य करता था अतः उसकी कोई हाजिरी नहीं होती थी, जिस दिन वह आता था उसी दिन उसका भुगतान कर दिया जाता था। प्रार्थी ने कुल 189 दिन कार्य किया है जो बैंक द्वारा प्रस्तुत स्टेटमेंट व वाउचर्स से स्पष्ट है। अतः अधिनियम के प्रावधान लागू नहीं होते। उनका तर्क है कि प्रार्थी ने स्वयं काम पर आना बंद कर दिया, उसे सेवा से निकालने का प्रश्न ही पैदा नहीं होता क्योंकि वह ठेके पर कार्य कर रहा था। इस प्रकार अधिनियम के प्रावधानों का कर्तव्य उल्लंघन नहीं हुआ है। प्रार्थी का कलेम खारिज होने योग्य है।

6. मैंने बहस पर मनन किया। प्रार्थी व अप्रार्थी की जो साक्ष्य आई उसका भी अध्ययन किया। प्रार्थी के साक्ष्य के रूप में स्वयं का शपथ पत्र पेश किया जिसमें बताया कि उसने अप्रार्थी के यहां नियुक्ति तिथि से एक वर्ष में 240 दिन से अधिक कार्य किया है किन्तु सेवा पृथक के समय धारा 25-एफ के प्रावधानों पर पालना नहीं की गई

जबकि अप्रार्थी के साक्षी का कथन है कि प्रार्थी ने मात्र 189 दिवस कार्य किया है तथा उसे ठेके पर 20 रुपये प्रतिदिन के हिसाब से पानी भरने के कार्य हेतु रखा गया था और उसने स्वयं ही काम पर आना बंद कर दिया, उसे सेवा पृथक नहीं किया गया। इस संबंध में प्रार्थी ने एक प्रार्थना पत्र इस आशय का पेश किया था कि इस तथ्य को साबित करने हेतु संबंधित दस्तावेजात चूंकि अप्रार्थी बैंक के पास ही हैं, अतः उनसे प्रस्तुत करवाये जायें। न्यायाधिकरण द्वारा इस संबंध में बैंक को निर्देशित किया गया था कि उपस्थिति रजिस्टर तथा अन्य रिकार्ड भुगतान वाउचर्स की सत्यापित प्रतियां प्रस्तुत की जायें। प्रार्थना पत्र के जवाब में अप्रार्थी बैंक के प्रतिनिधि द्वारा मात्र एक स्टेटमेंट पेश किया गया जिसमें रिकार्ड के आधार पर श्रमिक द्वारा 189 दिवस कार्य करना दर्शाया गया है किन्तु इस स्टेटमेंट पर किसी बैंक अधिकारी के हस्ताक्षर नहीं हैं न ही यह प्रमाणित प्रति है। फिर किस महीने में श्रमिक ने कितने दिन काम किया यह तो अंकित है किन्तु इसका कोई आधार नहीं बताया गया है, अगर यह रिकार्ड पर आधारित है तो रिकार्ड प्रस्तुत करने में बैंक को क्या आपत्ति थी। न्यायाधिकरण के आदेश के बावजूद जानवृद्धकर रिकार्ड नहीं पेश नहीं करने से बैंक के विरुद्ध प्रतिकूल अवधारणा ली जा सकती है। इसके अतिरिक्त जो वाउचर्स पेश किये गये हैं वे भी प्रमाणित प्रतिलिपि नहीं है तथा उनके अवलोकन से स्पष्ट है कि किसी माह में श्रमिक को 180 रुपये का भुगतान हुआ है जो किसी माह में 260 रु. का किसी में 300 रु. का जबकि अप्रार्थी के गवाह ने साक्ष्य में बताया है कि श्रमिक को रोज का रोज जब भी वह कार्य पर आता उसे 20 रुपये भुगतान कर दिया जाता था। इससे स्पष्ट है कि अप्रार्थी की मौखिक साक्ष्य और दस्तावेजी साक्ष्य में विरोधाभास है और उनकी साक्ष्य विश्वसनीय नहीं है। वाउचर्स जो न्यायाधिकरण में पेश किये गये हैं वे न तो प्रमाणित हैं न ही स्पष्ट हैं जिनसे वास्तविकता का पता चल सकता। अप्रार्थी के साक्षी ने अपने प्रति परीक्षण में यह स्वीकार किया है कि प्रार्थी ने 20-8-1991 से 26-8-1992 तक लगातार पानी भरने का कार्य किया है, आगे जिरह में यह भी स्वीकार किया है कि श्रमिक पानी पिलाने का कार्य करता था, पानी पिलाने का कार्य मात्र दो घंटे का नहीं होता। फिर साक्षी यह भी स्वीकार करता है कि कैश बुक, पीओन बुक, मेन्टेनेंस हैंड आदि न्यायालय में पेश नहीं किये न ही नवम्बर 1991 व दिसम्बर 1991 तथा अन्य वाउचर्स पेश किये हैं। इस साक्ष्य से यह अवधारणा बनती है कि रिकार्ड बैंक में मौजूद था किन्तु जानवृद्धकर न्यायालय में पेश नहीं किया गया है। प्रार्थी ने 240 दिन कार्य नहीं किया, इस तथ्य को साबित करने का भार अप्रार्थी पर है क्योंकि समस्त रिकार्ड नियोजक के ही कब्जे में होता है किन्तु प्रस्तुत प्रकारण में नियोजक यह सिद्ध करने में असफल रहा है कि श्रमिक ने 240 दिन नियोजक संस्थान में कार्य नहीं किया। इसके विपरीत प्रार्थी ने कलेम के अनुसार ही अपनी साक्ष्य में भी यही तथ्य स्पष्ट करा है कि उसने बैंक में नियुक्ति से एक वर्ष की अवधि में 240 दिन पूरे कर लिये थे तथा वह चतुर्थ श्रेणी कर्मचारी के सभी कार्य करता था। प्रतिपरीक्षण में भी दिये गये सुझावों में प्रार्थी के कथनों में कोई विरोधाभास नहीं है। अतः प्रकरण में यह सिद्ध है कि प्रार्थी ने दिनांक 20-8-1991 से 26-8-1992 तक की अवधि में 240 दिन लगातार कार्य किया है किन्तु उसकी सेवा मुक्ति के समय धारा 25-एफ

अधिनियम के प्रावधानों का उल्लंघन किया गया है अतः प्रार्थी का सेवा मुक्ति आदेश मेरे मत में अनुचित व अवैध है जो अपास्त होने योग्य है।

9. उपरोक्त सारे विवेचन से मैं पाता हूँ कि प्रार्थी का क्लेम स्वीकार होने योग्य है अतः निर्देश का उत्तर निम्न प्रकार दिया जाता है :

“ओरियन्टल बैंक ऑफ कॉमर्स के प्रबन्धन द्वारा श्रमिक श्री तेज सिंह दैनिक वेतन भोगी श्रमिक की सेवाएं 26-8-1992 से समाप्त करने की कार्यवाही उचित एवं वैद्य नहीं है, अतः उक्त आदेश अपास्त किया जाता है। श्रमिक इसके परिणामस्वरूप पिछले समस्त वेतन व अन्य लाभ सहित सेवा में पुनः नियोजित होने का अधिकारी है।”

5. अवार्ड आज दिनांक 15-3-2010 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जी. के. गौड़, पीठासीन अधिकारी

नई दिल्ली, 15 सितम्बर, 2010

का. आ. 2524.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 02/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/421/95-आई आर (बी-II)]

पुष्पेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th September, 2010

S.O. 2524.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/1997) of the Industrial Tribunal, Jaipur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 14-9-2010.

[No. L-12012/421/95-IR (B-II)]
PUSHPENDER KUMAR, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 02/1997

रैफरेंस :

केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/421/95-आई.आर. (बी-II) दिनांक 7-1-1997

श्री प्रभु सिंह, आत्मज श्री प्रताद सिंह, पता चमेली का नाम दर्जन की चट्टारी के पास, अलवर (राज.) । . . पाश्चात्य

बनाम

सहायक महाप्रबन्धक, बैंक ऑफ बड़ौदा, आनन्द भवन, अनुबंध चंद्र रोड, जयपुर । . . अनुबंध

उपस्थित

पीठासीन अधिकारी : श्री जी. के. गौड़, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री एम. एफ. बेग

अप्रार्थी की ओर से : श्री तेज प्रकाश शर्मा

दिनांक अवार्ड : 11-8-2010

अवार्ड

1. भारत सरकार के श्रम मंत्रालय को आज्ञा क्रमांक 12012/421/95—दिनांक 7-1-1997 से निम्न अनुसूची का विवाद “Whether the action of the management of Bank of Baroda in terminating the services of Shri Prabu Singh w.e.f. 23-6-1983 without giving him opportunity of regular appointment pac with his junior is legal and justified ? If not, to what extent the workman is entitled and from what date” अधिनियम के इस अधिकरण को प्राप्त हुआ है।

2. प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ कंनेम पेश हुआ जिसके अनुसार तथ्य इस प्रकार हैं कि प्रार्थी की नियुक्ति अप्रार्थी वैक्स में दिनांक 8-10-1981 को चपरासी के पद पर दैनिक वेतन भोगी रूप में हुई थी व उसने उनके यहां अपनी नियुक्ति वैक्स में दी। ईमानदारी से कार्य किया। उसके बाद प्रार्थी को 23-6-1983 के मौखिक आदेश से बिना किसी नोटिस के मंत्रा पृथक कर दिया गया। उसकी छंटनी के समय “पहले आओ पीछे जाओ” के मिट्टन वा पूर्णतया उल्लंघन किया गया है, उसकी छंटनी के समय बोडी वैक्स सूची नहीं निकाली, प्रार्थी ने 8-10-1981 से 23-6-1983 तक के 104 दिन कार्य किया। प्रार्थी का कथन है कि उसकी छंटनी के बाद उससे कनिष्ठ श्रमिक सुंदर योग्य एवं विजेन्द्र मिंह अप्रार्थी वैक्स पर कार्य कर रहे थे। प्रार्थी का कथन है कि उसकी छंटनी के बाद वह नियुक्ति भी की गई है तथा सितम्बर 1991 में अमर उत्तमा गमाना पत्र में इस संबंध में एक नियंत्रित निकाली गई थी कि जिन लोगों ने 1-1-1982 से 31-12-1990 के बीच अप्रार्थी भी किसी भी शामा में चपरासी के पद पर 90 दिन या इससे अधिक अमर्यादि रूप ग्रहण किया हो वे विज्ञप्ति की शर्तों के अनुसार आवेदन करें जिसमें अप्रार्थी बैंक द्वारा भविष्य में की जाने वाली भर्तीयों के लिए लागतों की नियंत्रित प्रदान करने हेतु बनाई जाने वाली सूची में उनका भी नाम शामिल न हो लिया जायेगा। प्रार्थी श्रमिक ने भी अपना नाम इस विज्ञप्ति के बाद अपना आवेदन पत्र प्रेषित किया किन्तु अप्रार्थी द्वारा की जाने वाली नियुक्तियों की सूची में श्रमिक का नाम अवैध तरीके से शामिल न हो किया तथा प्रार्थी से कनिष्ठ व्यक्तियों को नियुक्ति दी गई गत तथा वर्तमान व्यक्तियों को नियुक्ति दी गई जिन्होंने प्रार्थी की सेवा पूर्या ।

23-6-1983 के बाद 90 दिन अप्रार्थी के यहाँ कार्य किया एवं उक्त विज्ञप्ति की प्रति क्लेम के साथ पेश करना बताया है। प्रार्थी का अभिकथन है कि उपरोक्त वर्णित दो कनिष्ठ श्रमिक अप्रार्थी के यहाँ यह विवाद दायर करने के दिन भी अप्रार्थी के यहाँ कार्यरत थे और इस तथ्य को प्रार्थी ने अपने जवाब दिनांक 10-11-1994 को भी किया है। प्रार्थी का कथन है कि इस संबंध में प्रार्थी श्रमिक ने अप्रार्थी के प्रबंध निदेशक को भी लिखित में आवेदन पेश किया था जिसकी प्रति भी क्लेम के साथ प्रस्तुत किया जाना बताया है और प्रार्थी की है कि श्रमिक की सेवामुक्ति को अवैध घोषित किया जाकर पिछला समस्त वेतन व अन्य लाभ दिलाये जाकर सेवा में पुनः बहाल किये जाने का अवार्ड परित किया जावे।

3. अप्रार्थी ने क्लेम का जवाब प्रस्तुत कर प्रारंभिक आपत्तियाँ की कि प्रार्थी ने क्लेम में शाखा प्रबंधक होप सर्कस को पक्षकार नहीं बताया है जिनके अधीन श्रमिक कार्य करता था। उनका जवाब है कि चूंकि श्रमिक ने वर्ष 1982 से 1990 तक आकस्मिक श्रमिक के रूप भें किसी भी वर्ष में 90 दिवस तक कार्य नहीं किया है ऐसी स्थिति में प्रार्थी का क्लेम खारिज होने योग्य है। प्रार्थी ने कभी भी एक कलैण्डर वर्ष में निरन्तर 240 दिवस से अधिक अप्रार्थी बैंक में कार्य नहीं किया है अतः क्लेम खारिज होने योग्य बताया। गुणावगुण पर अप्रार्थीगण का जवाब रहा है कि प्रार्थी श्रमिक को अप्रार्थी की होप सर्कस शाखा में स्थाई कर्मचारी के अवकाश पर जाने के कारण बैंक की आवश्यकतानुसार रखा था। प्रार्थी ने कुल मिलाकर अप्रार्थी संस्थान में विभिन्न समयों में 64 दिन ही कार्य किया है तथा आकस्मिक कार्य की समाप्ति पर उसकी सेवा स्वतः ही समाप्त हो जाती थी अतः उसे सेवा पृथक करने का प्रश्न ही पैदा नहीं होता। अप्रार्थी का कथन है कि आकस्मिक श्रमिकों का बैंक में कोई रिकार्ड आदि नहीं रखा जाता न ही उनका कोई रजिस्टर रखा जाता है। अप्रार्थी का जवाब में यह भी अभिकथन है कि अप्रार्थी दैंक स्थाई कर्मचारियों की नियुक्ति के लिए विज्ञापन द्वारा नियमानुसार नियोजन कार्यालय द्वारा भेजे गये नामों व पात्रता, आयु व साक्षात्कार के आधार पर ही नियुक्तियाँ करता है। अप्रार्थी का कथन है कि विज्ञापन में स्पष्ट रूप से अंकित किया गया था कि जिन लोगों ने 1-1-1982 से 31-12-1990 के बीच 90 दिन तक अस्थाई रूप से कार्य किया हो वही स्थाई नियुक्ति के योग्य समझे जायेंगे, चूंकि प्रार्थी श्रमिक ने वर्ष 1981 से लेकर 1983 तक केवल मात्र 64 कार्य दिवस ही कार्य किया था अतः व नियमानुसार स्थाई नियुक्ति प्राप्त करने के लिए पात्र नहीं था, मात्र किसी व्यक्ति द्वारा फार्म भरे जाने से ही कोई नियुक्ति का अधिकारी नहीं हो जाता। अप्रार्थी का कथन है कि आकस्मिक रूप से कार्यरत श्रमिक के आकस्मिक कार्य पूरा दो जाने पर स्वतः ही उसकी सेवा समाप्त हो जाती है उसे किसी प्रकार का नोटिस आदि देने की आवश्यकता नहीं होती अतः श्रमिक का क्लेम उक्त आधारों पर खारिज होने योग्य बताया है।

4. पक्षकारान को साक्ष्य प्रस्तुत करने का अवसर दिया गया। प्रार्थी की ओर से साक्ष्य में स्वयं श्रमिक प्रभु स्थिंह का शास्त्र पत्र पेश हुआ है जिससे अप्रार्थी प्रतिनिधि ने जिरह भी है। अप्रार्थी की ओर से कन्दर्प कुमार डाकोता, का शास्त्र पत्र प्रस्तुत हुआ है जिसमें प्रार्थी

प्रतिनिधि द्वारा जिरह की गई है। दोनों पक्षों की ओर से कुछ दस्तावेजात भी प्रस्तुत हुए हैं।

5. मैंने उभय पक्ष के प्रतिनिधिगण की बहस सुनी, पत्रावली का अवलोकन किया। दोनों पक्षों की ओर से लिखित बहस भी पेश की गई है जिसका भी अवलोकन किया गया। प्रार्थी प्रतिनिधि के तर्क हैं कि प्रार्थी की प्रथम नियुक्ति दिनांक 8-10-1981 को अप्रार्थी के अधीन दैनिक वेतन भोगी चपरासी के पद पर हुई थी और उसे विना कोई कारण बताये व विना कोई आगेप पत्र दिये अथवा विना कोई नोटिस दिये दिनांक 23-6-1983 को सेवा मुक्त कर दिया। प्रार्थी ने नियुक्ति तिथि से लेकर सेवा मुक्ति की दिनांक तक अप्रार्थी के यहाँ लगातार 104 दिन कार्य किया तथा उसका कार्य सदैव संतोषजनक रहा। प्रतिनिधि प्रार्थी का कथन है कि प्रार्थी को सेवा मुक्त करने में पूर्व कोई विष्फलता सूची प्रकाशित की गई ने ही लास्ट-कम-फर्स्ट गों के सिद्धान्त का पालन किया और इस प्रकार अधिनियम की भाग 25-जी एवं 25-एच के प्रावधानों का स्पष्ट उल्लंघन किया गया है क्योंकि प्रार्थी की सेवामुक्ति के समय उससे कनिष्ठ श्रमिक श्री सुरेशचंद्र मीणा व विजेन्द्र सिंह कार्य कर रहे थे इस तथ्य को अप्रार्थी ले सहायक श्रम आयुक्त के जवाब में स्वीकार किया है। प्रतिनिधि प्रार्थी का तर्क है कि अप्रार्थी की विज्ञप्ति दिनांक 27-9-1991 के क्रम में प्रार्थी ने आवेदन पत्र प्रस्तुत किया था लेकिन उसका नाम द्वेषता के कारण उक्त सूची में शामिल नहीं किया गया जबकि प्रार्थी 8-10-1981 से 23-6-1983 तक 104 दिन तक लगातार अप्रार्थी बैंक में कार्य कर चुका था अतः उक्त विज्ञप्ति के अनुसार व धारा 25-एच के अनुसार भी वह पुनः नियुक्ति का अधिकारी है, अतः इस आशय का अवार्ड परित किया जावे।

6. प्रार्थी प्रतिनिधि ने अपने तर्कों के समर्थन में निम्न व्याय दृष्टान्त प्रस्तुत किये :

1. आर.एल.आर. 1991 (2) पेज 158 ओरियेण्टल बैंक ऑफ कॉमर्स बनाम पीठासीन अधिकारी जी.जी.आई.टी. व अन्य।
2. एल.एल.जे. 1996 (11) 216 सैन्ट्रल बैंक ऑफ इण्डिया बनाम एस. सत्यम व अन्य।
3. 1996 (2) एल.एल.एन. 1126 (गुजरात) राजकोट म्युनीसीपल कार्पोरेशन किशोर गोविंद।
4. डब्ल्यू.एल.सी. (यू.सी.) 2006, 439 राजस्थान राज्य बनाम श्री नेमी चंद।
5. डब्ल्यू.एल.सी. 2002 (1) 296, अरावली क्षेत्रीय ग्रामीण बैंक सबाई माधोपुर।
6. डब्ल्यू.एल.सी. 2004 (3) 563, जे.डी.ए. जयपुर आदि बनाम राम सहाय।
7. अप्रार्थी प्रतिनिधि ने अपनी बहस में बताया कि प्रार्थी श्रमिक को अप्रार्थी के यहाँ आकस्मिक कार्य की पूर्ति के लिए आकस्मिक श्रमिक के रूप में होप सर्कस शाखा में स्थाई कर्मचारी

के अवकाश पर जाने के कारण रखा गया था, ऐसे में प्रार्थी श्रमिक के कार्य की समाप्ति आकस्मिक कार्य कर समाप्ति के साथ स्वतः ही हो जाती है। अप्रार्थी प्रतिनिधि का तर्क है कि श्रमिक ने 1982 से दिसम्बर 1990 तक किसी भी वर्ष में 90 दिन तक कार्य नहीं किया है बल्कि आकस्मिक श्रमिक के रूप में 64 दिन ही कार्य किया है, इसी प्रकार वर्ष 1981, 1982 व 1983 में भी आकस्मिक श्रमिक के रूप में भी कभी 240 दिवस तक निरन्तर कार्य नहीं किया। उनका तर्क है कि आकस्मिक श्रमिकों का बैंक में कोई रिकार्ड नहीं रखा जाता तथा स्थाई कर्मचारियों की नियुक्ति हेतु बैंक में एक निर्धारित प्रक्रिया होती है। बैंक द्वारा जारी विज्ञापन में स्पष्ट अंकित था कि जिन लोगों ने 1-1-1982 से लेकर 31-12-1990 के बीच 90 दिन तक अस्थाई रूप से अप्रार्थी के यहां कार्य किया है केवल वही श्रमिक स्थाई नियुक्ति के योग्य समझे जायेंगे और चूंकि श्रमिक ने उक्त अवधि में मात्र 64 दिन ही कार्य किया था अतः वह उक्त विज्ञापन के तहत नियुक्ति का पात्र नहीं था। प्रतिनिधि अप्रार्थी का तर्क है कि आकस्मिक श्रमिकों की सेवाएं समाप्त होने पर उन्हें अधिनियम के तहत कोई नोटिस देने की आवश्यकता नहीं होती बल्कि आकस्मिक कार्य समाप्ति पर उनकी सेवाएं स्वतः ही समाप्त हो जाती हैं, ऐसे में धारा 23 की व एच अधिनियम के प्रावधानों की कोई उल्लंघन नहीं हुई है और उसका क्षेत्र अधिरिज होने योग्य है।

8. मैंने उभय पक्ष के तर्कों पर मनन किया, पत्रावली तथा आई साक्ष्य का अध्ययन किया तथा प्रस्तुत ज्याय दृष्टान्तों का भी अध्ययन किया ।

9. प्रकरण में यह तथ्य तो दिनों पक्षों के मध्य स्वीकृत है कि प्रार्थी श्रमिक की नियुक्ति 1-10-1981 को की गई थी और वह भी स्वीकृत है कि उनकी सेवाएं दिनांक 23-6-1983 को समाप्त कर दी। प्रार्थी का कथन है कि जिस दिनांक को उसकी सेवाएं मौखिक आदेश से समाप्त कर दी गई और इस अवधि में उसने अप्रार्थी के यहां 104 दिन से कार्य किया किन्तु उसकी सेवा मुक्ति से पूर्व उसे कोई नोटिस अथवा नोटिस पे एवं मुआवजा आदि नहीं दिया गया न ही कोई वरिष्ठता सूची बनाई गई और इस प्रकार धारा 25-एफ व जी के प्रावधानों के उल्लंघन में उसकी सेवाएं समाप्त की गई हैं तथा उससे कनिष्ठ श्रमिक बैंक में कार्यरत थे और उसके बाद भी स्थाई नियुक्तियां की गई हैं किन्तु प्रार्थी श्रमिक को कन्स्टीडर नहीं किया गया, जबकि अप्रार्थी का कथन है कि उसे सेवा से नहीं हटाया गया बल्कि आकस्मिक कार्य की समाप्ति के बाद उसकी सेवाएं स्वतः की समाप्त हो गई। अप्रार्थी के इस तर्क को यदि बहस के लिए मान भी लिया जाये किन्तु अप्रार्थी के गवाह श्री के. के. डाकोत ने आगे प्रति परीक्षण में स्वीकार किया है कि 8-10-1981 से 22-6-1983 तक श्रमिक ने बैंक की होप सर्कस शाखा में 64 दिन तक कार्य किया है। प्रति परीक्षण में अप्रार्थी के गवाह ने यह भी स्वीकार किया है कि दिनों की गणना रिकार्ड के आधार पर की गई है जबकि अप्रार्थी के जवाब में यह अधिकथित किया गया है कि आकस्मिक श्रमिकों का कोई रिकार्ड नहीं रखा जाता। इसके अतिरिक्त गवाह ने यह भी स्वीकार किया है कि यह छिर्टीन्यून लेस शाखा द्वारा उपलब्ध कराया गया है उसे

इस संबंध में कोई व्यक्तिगत जानकारी नहीं है क्योंकि उम्मने की उक्त शाखा में काम नहीं किया जबकि श्रमिक ने अपनी साक्ष्य में स्पष्ट कहा है कि उक्त अवधि में उसने अप्रार्थी बैंक में 104 दिन कार्य किया है । बैंक द्वारा जो विज्ञप्ति प्रदर्श डब्ल्यू-1 मिकाली गई है उसमें अवलोकन से यह तो स्पष्ट है कि दिनांक 1-1-1982 से 31-12-1991 के बीच जिन श्रमिकों ने अप्रार्थी बैंक की किसी भी शाखा में आदि तक कार्य किया हो वे बैंक में स्थाई पदों हेतु आवेदन कर सकते हैं श्रमिक के कथनानुसार चुंकि उसने 104 दिन कार्य किया अतः उसने उक्त विज्ञप्ति के तहत आवेदन किया था जो रिकार्ड भेजा था । इस संबंध में मेरा विनम्र मत है कि बैंक की ओर से ऐसों कोई पृष्ठा साक्ष्य पेश नहीं की गई है जिस पर यह विश्वास किया जा सके कि प्रार्थी ने बैंक में मात्र 64 दिन ही कार्य किया हो । बैंक द्वारा दिनांक 1-6-1995 के पत्र द्वारा जो कि सहायक श्रम आयुक्त (कन्डील) को भेजा गया है में विस्तृत विवरण देते हुए बताया है कि प्रार्थी ने भाग 1 के दिवस ही बैंक में कार्य किया जबकि जवाब में उनका कक्षन रद्द हो गया । आकस्मिक श्रमिकों का रिकार्ड नहीं रखा जाता । अप्रार्थी के गवाह ने प्रति परीक्षण में यह भी स्वीकार किया है उसने उक्त शाखा में कभी कार्य नहीं किया और जो रिकार्ड उसे शाखा द्वारा उपलब्ध कराया गया है उसी के आधार पर वह बयान दे रहा है । अप्रार्थी का गवाह नहीं नहीं स्वीकार करता है कि श्री मुरुंश चन्द्र मीणा व विजेन्द्र शिंह नैन ने अगवली शाखा व बगरु शाखा में क्रपशः बायेंगे हैं । अप्रार्थी का गवाह की इस स्वीकारणेक्ति से कि उक्त दोनों व्यक्तियों ने कार्य कराया है, यह तो स्पष्ट हो जाता है कि जिस अवधि में प्रार्थी श्रमिक बैंक में कार्यरत था, वे दोनों व्यक्ति भी कार्यरत थे और प्रार्थी ने अपने कथन में यह स्पष्ट कथन किया है कि उक्त दोनों श्रमिक प्रार्थी से कनिष्ठ हैं यदि उक्त दोनों को बैंक द्वारा विज्ञप्ति के तहत स्थाई नियुक्ति दी गई है तो प्रार्थी श्रमिक उनसे वरिष्ठ होने के कारण स्थाई नियुक्ति का पात्र हो जाता है । उक्त दोनों व्यक्ति प्रार्थी श्रमिक से वरिष्ठ हों, ये उक्त कथन बैंक का नहीं रहा है न ही इस संबंध में बैंक ने कोई बाधकता सूची या अन्य कोई साक्ष्य आदि पेश की है । ऐसे में मेरे विनम्र मत में यह तो साबित है कि प्रार्थी से कनिष्ठ श्रमिक उस समय बैंक में कार्यरत थे जबकि पहले-आओ-पीछे-जाओ के सिद्धान्त के अनुसार श्रमिक से कनिष्ठ श्रमिकों की सेवा पहले समाप्त होनी चाहिये । जहां तक अप्रार्थी प्रतिनिधि के इस तर्क का प्रश्न है कि उनके द्वारा जो विज्ञप्ति निकाली गई थी उसमें यह स्पष्ट कथन था कि जिन श्रमिकों ने उक्त अवधि में 90 दिन कार्य किया हो वे ही आवेदन के पात्र थे, इस संबंध में मेरा मत है कि अप्रार्थी के गवाह ने प्रतिपरीक्षण में स्वीकार किया है, उसे इस बात की व्यक्तिगत जानकारी नहीं है कि प्रार्थी श्रमिक ने 104 दिन कार्य किया हों और यह भी स्वीकार किया किस होप सर्कस शाखा के विवादित अवधि के श्रमिक से मन्दिगित सारे बाउचर्स वे नहीं लाये । इस तथ्य को मिठ्ठा करने का भाय अप्रार्थी बैंक पर था कि श्रमिक ने विवादित अवधि में 90 दिन बैंक में कार्य नहीं किया इसलिए वह उक्त विज्ञप्ति के तहत आवेदन का अन्तिम स्थाई नियुक्ति का पात्र नहीं था । किन्तु इस संबंध में कोई रिकार्ड पेश नहीं किया गया है और ऐसा भी कोई अभिकथन बैंक का नहीं रहा है कि श्रमिक की सियुक्ति अधिनियम की धारा 2(00) (नीची)

के अन्तर्गत की गई हो न ही ऐसी कोई साक्ष्य पेश नहीं हई है। यह स्वीकृत स्थिति है कि श्रमिकों से संबंधित रिकार्ड एवं वाउचर्स आदि नियोजक के पास ही उपलब्ध होते हैं और उन्हें न्यायधिकरण में पेश नहीं करने से अप्रार्थी के विरुद्ध विपरीत धारणा ली जा सकती है।

10. इसके अतिरिक्त भी अधिनियम के प्रावधानों के अनुसार धारा 25-एच के अन्तर्गत यदि बैंक द्वारा नई नियुक्तियाँ की जानी थी तो जो श्रमिक बैंक में पहले कार्य कर चुका हो, पहले उसके नाम पर विचार करना आवश्यक था। किन्तु हस्तगत प्रकरण में बैंक द्वारा ऐसा भी नहीं किया गया है। अप्रार्थी का कथन रहा है कि चूंकि श्रमिक ने एक कलैण्डर वर्ष में 240 दिन तक कार्य नहीं किया ऐसे में अधिनियम के प्रावधान उस पर लागू नहीं होते। मेरे विनम्र मत में जैसा कि मात्र ऐसी नियुक्ति जो धारा 2(00)(बीबी) अधिनियम के अन्तर्गत की गई हो मात्र ऐसी नियुक्ति अधिनियम के प्रावधान लागू नहीं होते अन्य सभी नियुक्तियों पर ये प्रावधान पूर्णतः लागू होते हैं। प्रतिनिधि अप्रार्थी यह सिद्ध नहीं कर पाये हैं कि प्रार्थी की नियुक्ति किसी निश्चित अवधि के लिए धारा 2(00)(बीबी) अधिनियम के अन्तर्गत की गई हो न ही उनकी ओर से प्रार्थी का कोई नियुक्ति पत्र पेश किया गया है जिससे यह सिद्ध हो सके कि उसकी नियुक्ति किस प्रावधान के अन्तर्गत की गई थी। अतः मेरे मत में प्रार्थी श्रमिक के मामले पर 25-जी एवं 25-एच के प्रावधान लागू होते हैं जैसाकि माननीय राजस्थान उच्च न्यायालय ने ओ.बी.सी. बनाम पी.ओ. सी.जी.आई.टी. (सुपरा) में निम्न प्रकार प्रतिपादित किया है :

“Ss. 25-G & 25-H are applicable even in case of retrenchment of a workman who has not completed 240 days of service—Ss. 25-F and 25-G and 25-H, though appear in same chapter of the Act, but are independent of each other.”

इसी प्रकार अन्य न्याय दृष्टान्तों में भी माननीय उच्च न्यायालयों एवं माननीय उच्चतम न्यायालय द्वारा इसी प्रकार के सिद्धान्त प्रतिपादित किये गये हैं।

11. पत्रावली के अवलोकन से यह भी प्रकट हुआ है कि प्रार्थी श्रमिक ने अपने आवेदन पत्र, जो कि बैंक द्वारा निकाली गई विज्ञप्ति के तहत बम्बई भेजा था, उसके संबंध में राजस्थान विधिक सहायता बोर्ड के जरिये प्रदर्श डब्ल्यू 5 से 7 तक के द्वारा जानकारी चाही है किन्तु अप्रार्थी बैंक ने इस संबंध में कुछ भी अवगत नहीं कराया है, ऐसे में यह स्पष्ट है कि श्रमिक ने उपरोक्त विज्ञप्ति के तहत अपना आवेदन पत्र मुख्य कार्यालय बम्बई को प्रेषित किया था किन्तु प्रार्थी के नाम पर विचार नहीं किया गया है और उससे कनिष्ठ श्रमिकों को बैंक में स्थाई नियुक्ति दी गई है, जो अधिनियम के प्रावधानों के विपरीत है।

12. उपरोक्त समस्त विवेचन से मेरा विनम्र मत है कि प्रार्थी को धारा 25-जी के तहत उससे कनिष्ठ श्रमिकों को सेवा से नहीं हटाकर श्रमिक को सेवा मुक्त करना व नई भर्तियाँ करते समय प्रार्थी श्रमिक के नाम पर धारा 25-एच अधिनियम एवं बैंक द्वारा निकाली गई विज्ञप्ति के तहत विचार नहीं किया जाना उचित नहीं है ऐसे में

प्रार्थी का क्लेम स्वीकार होने योग्य है और प्रकरण में निम्न अवार्ड पारित किया जाता है :

“The action of the management of Bank of Baroda in terminating the services of workman Shri Prabhu Singh w.e.f. 23-6-1983 without giving him opportunity of regular appointment par with his junior is not legal. The said order is set aside. The workman is entitled to be taken back in service with full back wages and with continuity of service. He will be entitled to all other benefits as per rules.”

7. अवार्ड आज दिनांक 11-8-2010 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

जी. के. गौड़, न्यायाधीश

नई दिल्ली, 15 सितम्बर, 2010

का. आ. 2525.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या 14/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/276/94-आई आर (बी-11)]

पुष्पेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th September, 2010

S.O. 2525.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/1995) of the Industrial Tribunal, Jaipur, now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 14-9-2010.

[No. L-12012/276/94-IR (B-II)]
PUSHENDER KUMAR, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 14/95

रैफरेंस :

केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/276/94-आई.आर. (बी-2) दिनांक 2-3-1995 श्री प्रताप सिंह पुत्र श्री नाथू सिंह चौहान, मुंशी राम दाम हचेली के पास, गंगापाल रावलजी का बाजार, जयपुर। . . . प्रार्थी

बनाम

क्षेत्रीय प्रबन्धक, बैंक ऑफ बडैदा, संसारचन्द्र रोड, जयपुर ।

अप्सारी

अस्तित्व

पीठासीन अधिकारी : श्री जी. के. गौड, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री बी.एम. बागड़ा

अप्राधीनी की ओर से : श्री तेज प्रकाश शर्मा

दिनांक अवार्ड : 11-8-2010

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली ने उपरोक्त आदेश के जरिये निम्न विवाद इस न्यायाधिकरण को आधिकारिक हेतु निर्देशित किया है :

“Whether the contention of Shri Pratap Singh, ex-casual workman that the management of Bank of Baroda, Jaipur have terminated his services w.e.f. 20-7-92 in violation of the provisions of Section 25-G and 25-H of the I.D. 1947 is correct ? If so, to what relief the said workman is entitled to ?”

2. प्रार्थी श्रमिक की ओर से विवाद को पुष्टि में अपना स्टेटमेंट ऑफ क्लेम पेश किया गया जिसके संक्षिप्त तथ्य इस प्रकार हैं कि प्रार्थी अप्रार्थी संस्थान में दिनांक 20-4-92 से अक्रियक श्रमिक के रूप में कार्य कर रहा था। नियुक्ति तिथि से प्रार्थी लगातार कार्य कर रहा था किन्तु अप्रार्थी के अधिकारियों ने दिनांक 20-7-92 से प्रार्थी को कार्य देना बंद कर दिया अर्थात् सेवा मुक्त कर दिया, उस समय प्रार्थी से कनिष्ठ श्रमिक अप्रार्थी बैंक में कार्य कर रहे थे तथा उसे सेवा से अलग करने के बाद दैनिक वेतन पर काम करने के लिए नये श्रमिकों को रखा है, इस प्रकार प्रार्थी की सेवा मुक्ति के समय अधिनियम की धारा 25-जी के तहत कोई वरिष्ठता सूची भी जारी नहीं की। प्रार्थी को सेवा मुक्त करने के पश्चात् जो कार्य प्रार्थी करता था उस कार्य के लिए नये श्रमिकों की भर्ती की है जो धारा 25-एच का उल्लंघन है। अतः सेवा मुक्ति अदेश अनुचित व अवैध भलते हुए प्रार्थना की कि सेवा मुक्ति आदेश दिनांक 20-1-92 को अनुचित व अवैध घोषित किया जावे, प्रार्थी की सेवा मुक्त विवाद मानते हुए समस्त पिछला वेतन व अन्य लाभ दिलवाये जाने का अवार्ड पारित किया जावे।

3. अप्रार्थी का जवाब है कि प्रार्थी ने एम.आई. रोड, जयपुर शाखा में दिनांक 20-4-92 से दिनांक 16-7-92 के मध्य कुल 84 दिन के लिए पूर्णतया अस्थाई तौर पर दैनिक आधार पर कार्य किया था। इस दौरान प्रार्थी को आकस्मिक कार्यों हेतु नियमित स्टाफ की अनुपस्थिति अथवा अवकाश पर जाने के कारण रखा गया था तथा उसके कार्य कर पक्की पूर्णतया अस्थाई थी और उसकी सेवाएं अतिरिक्त कार्य की समाप्ति के बाद स्वतः ही समाप्त हो गई थी, अतः प्रार्थी का यह कथन कि बिना कारण उसे सेवा से पृथक कर दिया, गलत है। अप्रार्थी का जवाब में कथन है कि अच प्रार्थी का कार्य

समाप्त हुआ उस समय बैंक ये प्रार्थी से कनिष्ठ कोई श्रीपिक नहीं था न ही किसी अन्य कर्पर्चारी को कार्य पर रखा गया । इसी बैंक का कथन है कि नियमित स्टाफ की नियुक्ति के लिए एवं प्रक्रिया अलग है एवं इसके लिए प्रार्थी का अप जिन्न नियमित चयन समिति द्वारा साक्षात्कार लिया जाता रहता है एवं उल्लंघन नहीं हुआ है न ही किसी श्रम कानून का उल्लंघन है । अतः प्रार्थी का ब्लॉक खारिज होने योग्य बताया ।

4. साक्ष्य में प्रार्थी प्रतात तिनि स्वयं का शपथ पत्र देती है जिससे अप्रार्थी प्रतिनिधि ने जिरह की है। अप्रार्थी को अतिरिक्त कन्दर्प कुमार डाकोत का शपथ पत्र पेश हुआ है जिससे अप्रार्थी प्रतिनिधि ने जिरह की है।

5. मैंने उभय दद के इसका अधिनियम को खात्र लिया था वहाँ २५ दिन तक गई है जिसका भी अवलोकन किया दूर तक नहीं गया अतः कोई दूर किया गया नहीं क्योंकि प्रार्थी की प्रथम नियुक्ति ददां अ. २०-८-१२ अ. ३ दिनों की दैनिक वेतन भोगी जिससे कोई धर दूर भी और दिनांक २० तक उसने बैंक में कुछ १० दिन बार्य किया था तथा बता कोई नहीं बताये व बिना कोई आरोप पत्र दिये दिनांक 20-7-१२ को प्रार्थी श्रमिक को सेवा मुक्त कर दिया तथा 17, 18 व 19 जुलाई अ. १२ उसे बाउचर से दिया गया था जिसको प्रतिलिपि प्रदर्श दृक्ष्य प्रतिनिधि प्रार्थी का कथन है कि प्रार्थी को सेवा मुक्त करने कोई वरिष्ठता सूची प्रकाशित की गई न ही लास्ट कल फार्म दिनांक सिद्धान्त का पालन किया और इस प्रकार अधिनियम की धारा १२ एवं २५-एच के प्रावधानों का स्पष्ट उल्लंघन किया गया है। प्रार्थी की सेवामुक्ति के समय उससे कनिष्ठ श्रमिक भारी कठोर तथा प्रार्थी को सेवा से अलग करने के बाद श्री विजयामर्थ विक्रमसिंह को अप्रार्थी बैंक की एम.आई.रोड शास्त्री द्वारा दी गई, जबकि उनको गंवा में रखने से पहले धारा २५-जी व एच अधिनियम की धारा २५-एफ में मन्त्रीमंत्र नहीं बल्कि ये स्वतंत्र प्रावधान हैं, यदि श्रमिक ने २४० दिन काम करने की अनुसार कनिष्ठ श्रमिकों का पहले हटाना होता है तो भर्तियां करनी हो तो जिन श्रमिकों ने पूर्व में अप्रार्थी अभ्यास भी किया हो उन्हें पहले कल्पित करना अवश्यक है। किन्तु अ. २० अधिनियम के प्रावधानों की गालिया नहीं की है। प्रतिनिधि का तर्क है कि अप्रार्थी के गालिया अतः प्रति परोक्षण में स्वीकृत होता है। एवं मिंड से काम शास्त्री भी तद द्वारा उन्हीं की गालिया की गयी है।

अवधि में शाखा प्रबन्धक कौन था, उसे पता नहीं, प्रति-परीक्षण में गवाह ने यह भी स्वीकार किया है कि डेली बेंजेज पर आदमी रखने का प्रावधान है जब-जब आवश्यकता होती है आदमी रखे जाते हैं। इस प्रकार प्रतिनिधि प्रार्थी के तर्क हैं कि बैंक के गवाह ने यह स्वीकार किया है कि प्रार्थी को हटाने के बाद भी नई नियुक्तियां दी हैं तथा धारा 25-एच के प्रावधानों की पालना नहीं की तथा प्रार्थी को सेवा से हटाते समय वरिष्ठता सूची नहीं बनाई, इस प्रकार धारा 25-जी का भी उल्लंघन किया है। अतः उनका तर्क है कि प्रार्थी पुनः नियोजित होने का व सेवा की निरन्तरता सहित समस्त पिछला वेतन पाने का अधिकारी है। प्रार्थी प्रतिनिधि ने अपने तर्कों के समर्थन में निम्न न्याय दृष्टान्त प्रस्तुत किये :

1. आर.एल.आर. 1991 (2) पेज 158 ओरियेण्टल बैंक ऑफ कॉमर्स बनाम पीठासीन अधिकारी जी.जी.आई.टी व अन्य।
2. (1996) 5 एस.सी.सी. 419 सैन्ट्रल बैंक ऑफ इण्डिया बनाम एस. सत्यम व अन्य।
6. इसके अतिरिक्त इस न्यायाधिकरण द्वारा श्री विजय कुमार भट्टाचार्य बनाम बैंक ऑफ बड़ौदा में पारित अवार्ड दिनांक 20-1-2000 की प्रति भी पेश की है जिसमें श्रमिक को 50 प्रतिशत वेतन के साथ सेवा में पुनः लिये जाने का अवार्ड पारित किया गया है।

फर्द नक्शा भौका घटनास्थल सिलसिले कार्यवाही अपराध धारा 16/54 RE Act, 1950 दिनांक 12-10-09 आबकारी प्रवर्तन स्टेशन झोटवाडा, जयपुर शहर (उत्तर) मु. नं. 63/09-10 समय 8.55 A.M।

साक्षी गण :

1. श्री औंकार सिंह कनि. नं. 1328 राज.-पुलिस हाल-प्रति. आब. प्रवर्तन स्टेशन झोटवाडा, जयपुर

2. श्रीमती सन्तो देवी महिला कनि. नं. 2312 R.H.G.-हाल-आब. प्रवर्तन स्टेशन कोतवाली, जयपुर शहर

उपरोक्त मोत निशन के समक्ष नक्शा मौका घटना स्थल अभियुक्ता श्रीमती सुनिता W/o श्री रोशन सांसी की उपस्थिति में मुर्तिक्र किया जाता है।

7. अप्रार्थी प्रतिनिधि ने अपनी बहस में बताया कि प्रार्थी श्रमिक को अप्रार्थी के यहां आकस्मिक कार्य की पूर्ति के लिए आकस्मिक श्रमिक के रूप स्थाई कर्मचारी के अवकाश पर जाने के कारण रखा गया था, ऐसे में प्रार्थी श्रमिक के कार्य की समाप्ति आकस्मिक कार्य कर समाप्ति के साथ स्वतः ही हो जाती है इसके लिए प्रार्थी को किसी प्रकार की सूचना या नोटिस आदि देने की आवश्यकता नहीं है। अप्रार्थी प्रतिनिधि का तर्क है कि स्थाई कर्मचारियों की नियुक्ति हेतु अलग से नियम बने हुए हैं जिसके लिए शैक्षणिक योग्यता, आयु आदि विवरण आवश्यक होता है व नियोजन कार्यालय में रजिस्ट्रेशन के अधार पर नियुक्ति देने का प्रावधान होता है, प्रार्थी को कभी कोई नियुक्ति पत्र आदि नहीं दिया गया। प्रतिनिधि का तर्क है कि श्रमिक ने एक वर्ष में 240 दिन तक कार्य नहीं किया है बल्कि

आकस्मिक श्रमिक के रूप में 20-4-92 से 16-7-92 तक मात्र 84 दिन ही अस्थाई तौर पर कार्य किया है। उनका तर्क है कि आकस्मिक श्रमिकों का बैंक में कोई रिकार्ड नहीं रखा जाता तथा स्थाई कर्मचारियों की नियुक्ति हेतु बैंक में एक निर्धारित प्रक्रिया होती है। ऐसे में धारा 25 जी व एच अधिनियम के प्रावधानों की कोई उल्लंघन नहीं हुई है और श्रमिक किसी राहत का अधिकारी नहीं है और उसका क्लेम खारिज होने योग्य है।

8. मैंने उभय पक्ष के तर्कों पर मनन किया, पत्रावली पर आई साक्ष्य का अध्ययन किया तथा प्रस्तुत न्याय दृष्टान्तों का भी सम्पादन अध्ययन किया।

9. प्रकरण में यह तथ्य तो दोनों पक्षों के मध्य स्वीकृत है कि प्रार्थी श्रमिक की नियुक्ति 20-4-92 को की गई थी और यह भी स्वीकृत है कि उसकी सेवाएं दिनांक 16-7-92 को समाप्त कर दी। प्रार्थी का कथन है कि इस दिनांक को उसकी सेवाएं मैखिक आदेश से समाप्त कर दी गई और इस अवधि में उसने अप्रार्थी के यहां ईमानदारी से व स्थाई कार्य के विरुद्ध कार्य किया किन्तु उसकी सेवा मुक्ति से पूर्व कोई वरिष्ठता सूची नहीं बनाई गई और इस प्रकार धारा 25-जी के प्रावधानों के उल्लंघन में उसकी सेवाएं समाप्त की गई हैं तथा उससे कनिष्ठ श्रमिक बैंक में कार्यरत थे और उसके बाद भी स्थाई नियुक्तियां की गई हैं किन्तु प्रार्थी श्रमिक को कस्टीडर नहीं किया गया, और धारा 25-एच अधिनियम के प्रावधानों का उल्लंघन किया है। जबकि अप्रार्थी का कथन है कि उसे सेवा से नहीं हटाया गया बल्कि आकस्मिक कार्य की समाप्ति के बाद उसकी सेवाएं स्वतः ही समाप्त हो गई। अप्रार्थी के इस तर्क को यदि बहस के लिए मान भी लिया जाये किन्तु अप्रार्थी के गवाह श्री के.के. डाकोत ने अपने प्रति-परीक्षण में स्वीकार किया है कि विवादित अवधि में श्रमिक ने बैंक की उसी शाखा में कार्य किया है जिसमें साक्षी भी कार्यरत था किन्तु इस अवधि में शाखा प्रबन्धक कौन था उसे याद नहीं है। प्रति परीक्षण में अप्रार्थी के गवाह ने यह भी स्वीकार किया है कि आवश्यकता होती उपलब्धता पर आदमी रखे गये थे। गवाह ने यह भी स्वीकार किया है कि अर्जुन लाल का अवार्ड न्यायाधिकरण से हुआ था तथा इस शाखा में भी कार्य की आवश्यकता के अनुसार केजूअल वर्कर रखे थे। इस स्वीकाराक्षित से यह प्रमाणित है कि प्रार्थी श्रमिक की सेवा समाप्ति के बाद भी अन्य व्यक्तियों को बैंक में रखा गया है। प्रार्थी श्रमिक को जो भुगतान किया गया है वह बातचर्चस के जरिये किया गया है किन्तु उसके बातचर्चस भी न्यायाधिकरण में पेश नहीं किये गये हैं जबकि उन्हीं के रिकार्ड के आधार पर दिनों की गणना की गई है जबकि अप्रार्थी के जबाब में यह अभिकथित किया गया है कि आकस्मिक श्रमिकों का कोई रिकार्ड नहीं रखा जाता। इसके अतिरिक्त गवाह यह भी कहता है कि उसे जानकारी नहीं है कि प्रताप सिंह की हाजिरी उसी शाखा में होती थी या नहीं जबकि वह उसी शाखा में कार्य करता था। अप्रार्थी का गवाह यह भी स्वीकार करता है कि जब भी उन्हें आकस्मिक कार्य के लिए व्यक्तियों की आवश्यकता होती है, वे रख लेते हैं। साक्षी ने यह भी स्वीकार किया।

है कि अर्जुन लाल को औद्योगिक न्यायाधिकरण के अवार्ड की पालना में नियुक्ति दी थी, इससे यह भी स्पष्ट है कि प्रार्थी श्रमिक का प्रकरण भी श्री अर्जुल लाल के समकक्ष है, जब उसको न्यायाधिकरण के आदेश से नौकरी पर रखा गया है तब प्रार्थी श्रमिक भी नियुक्ति का अधिकारी हो जाता है। प्रार्थी श्रमिक ने अपनी साक्ष्य में स्पष्ट कहा है कि विवादित अवधि में उसने अप्रार्थी बैंक में 90 दिन काम किया है। अगर श्रमिक ने 90 दिन काम नहीं किया तो अप्रार्थी बैंक को इस आशय का रिकार्ड आदि पेश करना चाहिये था क्योंकि रिकार्ड आदि तो नियोजक के पास ही रहता है, जो पेश नहीं किया गया है। श्रमिक ने अपनी साक्ष्य में यह भी सिद्ध किया है कि रीजनल ऑफिस के श्रमिकों को जो कि उससे कनिष्ठ थे, एम.आई.रोड शाखा में लगाया, ऐसे में मेरे विनम्र मत में यह तो साबित है कि प्रार्थी से कनिष्ठ श्रमिक उस समय बैंक में कार्यरत थे जबकि पहले-आओ-पीछे-जाओ के सिद्धान्त के अनुसार श्रमिक से कनिष्ठ श्रमिकों की सेवा पहले समाप्त होनी चाहिये थी। अप्रार्थी का ऐसा भी कोई अभिकथन बैंक का नहीं रहा है कि किसी श्रमिक की नियुक्ति अधिनियम की धारा 2(00)(बीबी) के अन्तर्गत की गई हो न ही ऐसी कोई साक्ष्य पेश नहीं हुई है। यह स्वीकृत स्थिति है कि श्रमिकों से संबंधित रिकार्ड एवं वाउचर्स आदि नियोजक के पास ही उपलब्ध होते हैं और उन्हें न्यायाधिकरण में पेश नहीं करने से अप्रार्थी के विरुद्ध विपरीत धारणा ली जा सकती है।

9. इसके अतिरिक्त भी अधिनियम के प्रावधानों के अनुसार धारा 25-एच के अन्तर्गत यदि बैंक द्वारा नई नियुक्तियां की जानी थी तो जो श्रमिक बैंक में पहले कार्य कर चुका हो, पहले उसके नाम पर विचार करना आवश्यक था। किन्तु हस्तगत प्रकरण में बैंक द्वारा ऐसा भी नहीं किया गया है। अप्रार्थी का कथन रहा है कि चूंकि श्रमिक ने एक कलैण्डर वर्ष में 240 दिन तक कार्य नहीं किया ऐसे में अधिनियम के प्रावधान उस पर लागू नहीं होते। मेरे विनम्र मत में जैसा कि मात्र ऐसी नियुक्ति जो धारा 2(00)(बीबी) अधिनियम के अन्तर्गत की गई हो मात्र ऐसी नियुक्ति अधिनियम के प्रावधान लागू नहीं होते अन्य सभी नियुक्तियों पर ये प्रावधान पूर्णतः लागू होते हैं। प्रतिनिधि अप्रार्थी यह सिद्ध नहीं कर पाये हैं कि प्रार्थी की नियुक्ति किसी निश्चित अवधि के लिए धारा 2(00)(बीबी) अधिनियम के अन्तर्गत की गई हो न ही उनकी ओर से प्रार्थी का कोई नियुक्ति पत्र पेश किया गया है जिससे यह सिद्ध हो सके कि उसकी नियुक्ति किस प्रावधान के अन्तर्गत की गई थी। अतः मेरे मत में प्रार्थी श्रमिक के मामले पर धारा 25-जी एवं 25-एच के प्रावधान लागू होते हैं जैसाकि माननीय राजस्थान उच्च न्यायालय ने ओ.बी.सी. बनाम पी.ओ.सी.जी. आई.टी. (सुपरा) में निम्न प्रकार प्रतिपादित किया है :

“Ss. 25-G & 25-H are applicable even in case of retrenchment of a workman who has not completed 240 days of service Ss. 25F and 25-G & 25-H, though appear in same chapter of the Act, but are independent of each other.”

इसी प्रकार अन्य न्याय दृष्टान्तों में भी माननीय उच्च न्यायालयों एवं माननीय उच्चतम न्यायालय द्वारा इसी प्रकार के सिद्धान्त प्रतिपादित किये गये हैं।

10. उपरोक्त समस्त विवेचन से मेरा विनम्र मत है कि प्रार्थी को धारा 25-जी के तहत उससे कनिष्ठ श्रमिकों को सेवा से नहीं हटाकर श्रमिक को सेवा मुक्त करना व नई भर्तियां करते समय प्रार्थी श्रमिक के नाम पर धारा 25-एच अधिनियम के तहत विचार नहीं किया जाना उचित नहीं हैं ऐसे में प्रार्थी का क्लेम स्वीकार होने योग्य है और प्रकरण में निम्न अवार्ड पारित किया जाता है :

“The contention of Shri Pratap Singh, ex-casual workman that the management of Bank of Baroda Jaipur have terminated his services w.e.f. 20-7-92 in violation of the provisions of Sections 25-G and 25-H of the I.D. Act, 1947 is correct? The said order is set aside. The worker is entitled to be taken back in service without break along with 50% back wages.”

11. अवार्ड आज दिनांक 11-8-2010 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनात्मक नियमानुसार भेजा जावे।

जी.के. गौड़, न्यायाधीश

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2526.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं सी.पी.डब्ल्यू.डी. के प्रबंधतांत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 77/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था।

[सं. एल-42012/95/2003-आई आर (सीएम-11)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2526.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2004) of the Central Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Public Works Department, and their workman, which was received by the Central Government on 16-09-2010.

[No.L-42012/95/2003-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT:

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 77/2004

Instituted on 17-03-2005

The Zonal Secretary,
All India CPWD (MRM) Karamchari
Sangathan (Regd.) CPWD Store Building,
Sector 7-B, Chandigarh. Applicant

Vs.

The Executive Engineer,
Central Public Works Department,
Chandigarh Central Electrical Division,
Kendriya Sadan, Sector 9-A,
Chandigarh. Respondent

APPEARANCES:

For the Workman : Sh. Tejinder Singh Dhindsa &
Som Dutt Sharma, Advocates

For the Management : Shri G.C. Babbar, Advocate

AWARD

Passed on 22nd July, 2010

Government of India vide Notification No. L-42012/95/2003 IR (CM-II) dated 25-2-2005, by exercising its powers under Section 10, Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act), has referred the following Industrial dispute for adjudication to this Tribunal :

“Whether the action of the management of CPWD, Chandigarh in not regularizing the services of Sh. Manoj Kumar Rai, Electrical Khalasi w.e.f. 1-12-2000 is legal and justified? If not, to what relief the workman is entitled?”

The claimants All India CPWD (MRM) Karamchari Sangathan hereinafter referred to as Sangathan and Manoj Kumar have raised an Industrial Dispute by stating that the claimant Manoj Kumar was employed under contract labour system as Khalasi with effect from 1-12-2000 by the management for attending the works of perennial nature of the management/respondent and has been continuing as such till the filing of the claim statement. He had been working under the direction and supervision of the management. He has worked for more than 240 days in every year from 1-12-2000 and therefore, he is entitled to regularization of his services. Respondent never considered the workman for regularization. Contract entered between C.P.W.D. i.e. principal employer and the contractor is absolutely sham devised to deprive the claimant/workman of the benefits available to him under the I.D. Act. There are vacant sanctioned posts of Khalasis with the management for absorption and regularization, but the management is continuing the workman as contract

labour. The workman claims his regularization on the sanctioned posts of Khalasi.

The claim was contested by the management. It was stated that the claimant is not a workman under the Act. He was neither engaged nor was paid wages by the respondent. The claimant may be a contract labour as the CPWD has a contract with a contractor and the latter had deployed persons for the performance of job as per contract. The management cannot verify about the engagement of the claimant by the contractor. The claimant has not impleaded the contractor. The claimant has no legal right of regularization or absorption being a man of the contractor and his claim against the management is not maintainable.

While the case was at the stage of evidence, the claimant Sangathan moved an application to say that the workman is not interested in the case and the same may be allowed to be withdrawn. From the application of the claimant Sangathan it is clear that the claimants are not pressing their claim. Hence, the reference is answered against them. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का.आ. 2527.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं फैट कार्पोरेशन ऑफ इण्डिया के प्रबंधतत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंजार (संदर्भ संख्या 41/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था।

[सं. एल-22011/59/2009-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2527.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2009) of the Central Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Bright Security Services, Food Corporation of India, and their workmen, which was received by the Central Government on 16-09-2010.

[No. L-22011/59/2009-IR (CM-II)]
D.S.S. SRINIVASARAO, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, CHANDIGARH

PRESENT:

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 41/2009

Instituted on 30-03-2010

Shri Dharam Veer S/o Sh. Ram Pal,
C/o Shri Yogesh Kumar S/o Rampal.
Kindergarten School, Waris Wala Road,
Makhu, Ward No. 10, Tehsil Zira, Distt.
Ferozepur.

... Applicant

Vs.

1. The District Manager, Food
Corporation of India, District Office,
Malwal Road, Ferozepur City.

2. Brig. Jaswant Singh Sandhu,
Bright Security Services,
38, Rani Ka Bag,
Amritsar.

3. The General Manager,
Food Corporation of India,
Punjab Region, Sector 31,
Chandigarh.

... Respondents

APPEARANCES:

For the Workman : None

For the Management : Shri N.K. Zakhmi, Advocate

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011/59/2009 IR (CM-II) dated 17-03-2010, by exercising its powers under Section 10, Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act), has referred the following industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham & bogus?
- (ii) Whether the demand of Shri Dharam Veer for reinstatement with full back wages & to treat him as regular employee of the FCI is legal and justified?

- (iii) To what relief the workman concerned is entitled to?"

Workman did not appear despite repeated notice on 31-03-2010, 04-05-2010, 10-06-2010 and notice by Registered post on dated 25-06-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2528.—औद्योगिक विवाद अधिनियम, 1947 (14 of 1947) का 14 की धारा 17 के अनुसरण में, केन्द्रीय सरकार फूटू कार्पोरेशन ऑफ इण्डिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कमिक्यून के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय प्रकाश औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ नं. 39/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था।

[सं. एल-22011/63/2009-आई आर. सी.एस. 1]

डी. एस. एस. श्रीनिवास राव, द्वारा अधिकारी

New Delhi, the 16th September, 2010

S.O. 2528.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 39/2009 in the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure. In the industrial dispute between the management of Food Corporation of India, Bright Security Services, Food Corporation of India, and their workman, which was received by the Central Government on 16-9-2010.

[No. L-22011/63/2009-IR (CM-II)
D. S. S. SRINIVASA RAO, Desk Officer]

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, CHANDIGARH

PRESENT:

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 39/2009

Instituted on 30-3-2010

Shri Manoj Kumar S/o Shri Desh Raj, Malari Gate Nakodar, Tehsil Nakodar, Distt. Jalandhar.

Versus

1. The District Manager, Food Corporation of India, District Office, Malwal Road, Ferozepur City.
2. Brig. Jaswant Singh Sandhu, Bright Security Services, 38 Rani Ka Bag, Amritsar.
3. The General Manager, Food Corporation of India, Punjab Region, Sector 31, Chandigarh.
... Respondents

APPEARANCES:

For the Workman: None

For the Management: Sh. N. K. Zakhmi, Adv.

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011/63/2009/IR (CM-II) Dated 17-3-2010, by exercising its powers under Section 10, Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act), has referred the following industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham and bogus ?
- (ii) Whether the demand of Shri Manoj Kumar for reinstatement with full back wages and to treat him as regular employee of the FCI is legal and justified ?
- (iii) To what relief the workman concerned is entitled to ?"

Workman did not appear despite repeated notice on 31-3-2010, 4-5-2010, 10-6-2010 and notice by Registered post on dated 25-6-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2529.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फूड कार्पोरेशन ऑफ इण्डिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 40/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था।

[सं. एल-22011/62/2009-आई आर (सीएम-II)]
डॉ. एस. श्रीनिवास राव, डेर्स्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2529.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 40/2009 of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, Bright Security Services, Food Corporation of India, and their workman, which was received by the Central Government on 16-9-2010.

[No. L-22011/62/2009-IR (CM-II)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, CHANDIGARH****PRESENT:**

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 40/2009

Instituted on 30-3-2010

Shri Bhajan Singh S/o Shri Mohan Singh, C/o Shri Yogesh Kumar S/o Rampal, Kindergarten School, Waris Wala Road, Makhu, Ward No. 10, Tehsil Zira Distt. Ferozepur.

... Applicant

Versus

1. The District Manager, Food Corporation of India, District Office, Malwal Road, Ferozepur City.
2. Brig. Jaswant Singh Sandhu, Bright Security Services, 38 Rani Ka Bag, Amritsar.
3. The General Manager, Food Corporation of India, Punjab Region, Sector 31, Chandigarh.
... Respondents

APPEARANCES:

For the Workman: None

For the Management: Sh. N. K. Zakhmi, Adv.

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011/62/2009/IR (CM-II) Dated 17-3-2010, by exercising its powers under Section 10, Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act), has referred the following industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the

37575/10-16

Contractor namely Bright Security Services, Amritsar is sham and bogus ?

- (ii) Whether the demand of Shri Bhajan Singh for reinstatement with full back wages and to treat him as regular employee of the FCI is legal and justified ?
- (iii) To what relief the workman concerned is entitled to ?

Workman did not appear despite repeated notice on 31-3-2010, 4-5-2010, 10-6-2010 and notice by Registered post on dated 25-6-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2530.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राजस्थान ग्रामीण बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 5/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था।

[सं. एल-12012/128/2006-आई आर (बी-1)]
रमेश सिंह, डेस्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2530.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 5/2007 of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Rajasthan Gramin Bank, B-9 Budh Vihar, and their workman, received by the Central Government on 16-9-2010.

[No. L-12012/128/2006-IR (B-I)]
RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Present : N. K. Purohit, Presiding Officer

Case No. I.D. 5/2007

Reference No. 12012/128/06/IR(B-I)
dated ; 1-2-2007

The Secretary, Rajasthan Gramin Bank Employees Federation, C/o C. S. Dubey, 49, Raghu Vihar, Durgapura, Japur.

Versus

The Chairman, Rajasthan Gramin Bank, B-9, Budh Vihar, Alwar (Raj.)

AWARD

28-7-2010

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-sections 1 and 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following industrial dispute to this tribunal for adjudication which is as under :

“Whether the action of the management of Rajasthan Gramin Bank, Alwar through Chairman in awarding the punishment of stoppage of increment for a period of six months in respect of Shri Rajendra Kumar Mathur, Clerk vide order dated 14-10-2004 without conducting enquiry is legal and justified ? If not, what relief the workman is entitled to and from which date ?

2. Pursuant to the reference, notices were issued to both the parties. Upon perusal of the proceedings of the case it appears that the claim statement was submitted by Shri Yogesh Sharma, Advocate on behalf of the workman's union on 28-3-2007 and its reply was filed on 2-2-2010. The next date i.e. 15-3-2010 was fixed for filing rejoinder but it appears from the proceedings of the case that neither the workman nor any representative on behalf of the concerned union appeared after filing the claim statement. On subsequent dates i.e. 23-12-09, 2-2-10, 15-3-10 and 19-4-10 the representative on behalf of the non-applicant was present. To afford an opportunity to the workman's union to participate in the proceedings registered notice was again issued to the union, despite this none has appeared on behalf of the union before the Tribunal to substantiate its claim.

3. In present reference, the question under consideration is whether the action of the bank in awarding the punishment in respect of workman is justified ? Since, the union has espoused the case of the workman and has challenged the action of the bank's management, the burden was upon the union to prove the illegality of the alleged action but after filing the claim none has appeared on behalf of the union before the Tribunal to substantiate averment made in its claim. It appears that the union is not willing to contest the case further. There is no material on record to adjudicate the reference on merit. Under these circumstances “No Claim Award” is passed in this matter.

4. Award as above.

N. K. PUROHIT, Presiding Officer

ANNEXURE
IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, CHANDIGARH

PRESENT :

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 43/2009

Instituted on 30-03-2010

Shri Varinder Kumar,

S/o. Shri Tarsem Lal,

Ward No. 6,

Gali Thakurala Wali,

Village Makhu, Tehsil Zira,

Distt. Ferozepur

... Applicant

Vs.

1. The District Manager, Food Corporation of India, District Office, Malwal Road, Ferozepur City.

2. Brig. Jaswant Singh Sandhu, Bright Security Services, 38 Rani Ka Bag, Amritsar.

3. The General Manager, Food Corporation of India, Punjab Region, Sector 31, Chandigarh.

... Respondents

APPEARANCES :

For the workman : None

For the Management : Shri N. K. Zakhmi, Adv.

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011/64/2009-IR (CM-II) dated 18-03-2010, by exercising its powers under Section 10, Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), has referred the following Industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham and bogus ?
- (ii) Whether the demand of Shri Varinder Kumar for reinstatement with full back wages and to treat him as regular employee of the FCI is legal and justified ?
- (iii) To what relief the workman concerned is entitled to ?"

Workman did not appear despite repeated notice on 31-03-2010, 04-05-2010, 10-06-2010 and notice by Registered post on 25-06-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the

Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2533.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं फूड कार्पोरेशन ऑफ इण्डिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचायत (संदर्भ संख्या 45/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था ।

[सं. एल-22011/65/2009-आई आर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2533.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2009) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of Food Corporation of India, Bright Security Services, Food Corporation of India, and their workman, which was received by the Central Government on 16-9-2010.

[No. L-22011/65/2009-IR (CM-II)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, CHANDIGARH

PRESENT :

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 45/2009

Instituted on 30-03-2010

Shri Sanjeev Kumar (Bagga),

S/o. Shri Mangat Ram,

Maloke Road, Zira Tehsil Zira,

Distt. Ferozepur

... Applicant

Vs.

- 1. The District Manager, Food Corporation of India, District Office, Malwal Road, Ferozepur City.
- 2. Brig. Jaswant Singh Sandhu, Bright Security Services, 38 Rani Ka Bag, Amritsar.
- 3. The General Manager, Food Corporation of India, Punjab Region, Sector 31, Chandigarh.

... Respondents

APPEARANCES:

For the workman : None

For the Management : Shri N. K. Zakhmi, Adv.

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011/65/2009-IR (CM-II) dated 18-03-2010, by exercising its powers under Section 10 Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), has referred the following Industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham and bogus ?
- (ii) Whether the demands of Shri Sanjeev Kumar for reinstatement with full back wages and to treat him as regular employee of the FCI is legal and justified ?
- (iii) To what relief the workman concerned is entitled to ?"

Workman did not appear despite repeated notice on 31-03-2010, 04-05-2010, 10-06-2010 and notice by Registered post on 25-06-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2534.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं फूट कार्पोरेशन ऑफ इण्डिया के प्रबंधतत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुवंश में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 44/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था ।

[सं. एल-22011/56/2009-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/2009) of the Central Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Bright Security

Services, Food Corporation of India, and their workman, which was received by the Central Government on 16-09-2010.

[No. L-22011/56/2009-IR (CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT:

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 44/2009

Instituted on 30-03-2010

Shri Amolak Singh,
S/o Shri Paramjit Singh,
VPO Marhana, District
Ferozepur

.... Applicant

Vs.

1. The District Manager,
Food Corporation of India,
District Office, Malwal Road,
Ferozepur City
2. Brig. Jaswant Singh Sandhu,
Bright Security Services,
38 Rani Ka Bag, Amritsar
3. The General Manager,
Food Corporation of India,
Punjab Region, Sector-31,
Chandigarh

.... Respondents

APPEARANCES:

For the Workman : None

For the Management : Shri N.K. Zakhmi, Adv.

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011/56/2009-IR (CM-II) dated 17-03-2010, by exercising its powers under Section 10 Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), has referred the following Industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham & bogus ?
- (ii) Whether the demand of Shri Amolak Singh for reinstatement with full back wages & to treat him as regular employee of the FCI is legal and justified?

(iii) To what relief the workman concerned is entitled to?"

Workman did not appear despite repeated notice on 31-03-2010, 04-05-2010, 10-06-2010 and notice by Registered post on dated 25-06-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 16 सितम्बर, 2010

का. आ. 2535.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं फूड कार्पोरेशन ऑफ इण्डिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 46/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-9-2010 को प्राप्त हुआ था।

[सं. एल-22011/55/2009-आई आर (सीएम-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 16th September, 2010

S.O. 2535.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2009) of the Central Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh now as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, Bright Security Services, Food Corporation of India, and their workman, which was received by the Central Government on 16-09-2010.

[No. L-22011/55/2009-IR(CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

PRESENT:

Sri A. K. Rastogi, Presiding Officer

Case No. I.D. 46/2009

Instituted on 30-03-2010

Shri Jatinder Sharma
S/o Shri Kuldeep Sharma,
Thakkurala Wali Gali, Near
Bhagat Mandir, Makhu Tehsil Zira,
Distt. Ferozepur

....Applicant

V.S.

1. The District Manager,
Food Corporation of India,
District Office, Malwal Road,
Ferozepur City

2. Brig. Jaswant Singh Sandhu,
Bright Security Services,
38 Rani Ka Bag, Amritsar

3. The General Manager,
Food Corporation of India,
Punjab Region, Sector-31,
Chandigarh

.... Respondent

APPEARANCE:

For the Workman : None

For the Management : Shri N.K. Zakhmi, Adv.

AWARD

Passed on 27th July, 2010

Government of India vide Notification No. L-22011-55/2009 IR (CM-II) dated 17-03-2010, by exercising its powers under Section 10 Sub-section (1)(d) and Sub-section (2A) of the Industrial Disputes Act, 1947 (hereinafter referred as the Act), has referred the following Industrial dispute for adjudication to this Tribunal :

- (i) "Whether the contract between the management of FCI, Ferozepur and the Contractor namely Bright Security Services, Amritsar is sham & bogus ?
- (ii) Whether the demand of Shri Jatinder Sharma for reinstatement with full back wages & to treat him as regular employee of the FCI is legal and justified?
- (iii) To what relief the workman concerned is entitled to?"

Workman did not appear despite repeated notice on 31-03-2010, 04-05-2010, 10-06-2010 and notice by Registered post on dated 25-06-2010. Since he failed to put in appearance and present his claim statement, the reference is answered against him. Let two copies of the award be sent to the Central Government for further necessary action and record be consigned after due compliance.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2010

का. आ. 2536.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं इन्डिया एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक

अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 74/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2010 को प्राप्त हुआ था।

[सं. एल-22012/125/1998-आई आर (सीएम-II)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th September, 2010

S.O. 2536.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 17-09-2010.

[No. L-22012/125/1998-IR(CM-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/74/99

Shri Mohd. Shakir Hasan, Presiding Officer.

The Secretary,
RKKMS (INYUC),
PO Chandametta,
Distt. Chhindwara (MP)

: Workman/
Union

Vs.
The Manager, WCL,
Kanhan Area of WCL,
PO Dungaria,
Distt. Chhindwara (MP)

: Management

AWARD

Passed on this 3rd day of September, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/125/98/IR(CM-II) dated 27-1-99 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of Nandan Mine No. 1 of M/s. Western Coalfields Ltd., Kanhan Area, Distt. Chhindwara in dismissing the service of Shri Thoffic Ali, S/o Basheer Ali Trammer is legal and justified? If not, to what relief is the workman entitled?”

2. In this case, the Union/workman did not appear inspite of proper notice. Lastly the then Tribunal proceeded ex parte against the workman on 26-6-06.

3. The management/non-applicant appeared and filed Written statement. The case of the management in short is that the workman was initially appointed as a General Mazdoor. He was promoted to the post of Trammer. he was habitual absentee and remained absent unauthorisedly without permission. In the year 1992, he worked only 70 days, 1993 only 57 days, in 1994 only 45 days and he worked in 1995 only 31 days. He was charge sheeted on 6-6-95. He replied but his reply was not satisfactory and the departmental proceeding was initiated. The Enquiry Officer and Management representative were appointed. The delinquent workman appeared in the departmental proceeding. He was assisted by his co-worker Shri Bashir Khan. The management examined witness and also adduced documentary evidence to prove the charges. The E.O. gave full opportunity to the delinquent workman to defend himself. After enquiry, the charge was found proved and the E.O. submitted his report. The Disciplinary authority considering the gravity of the charges against the workman passed the order of termination from service w.e.f. 10-10-95. it is submitted that the workman is not entitled to any relief.

4. The following issues are framed for decision.

- (i) Whether the departmental enquiry conducted by the management is valid and legal?
- (ii) Whether the action of the management is dismissing the service of the workman is legal and justified?
- (iii) To what relief, the workman is entitled ?

Issue No. 1 :

5. All the issues are taken up finally as the proceeding is ex parte against the Union/workman. The management has examined one witness and has filed photocopies of the departmental proceedings. The witness Shri Parimal Malviya is working as Manager in Nandan Mine No. 1. He has stated that the workman was habitual absentee. He has stated about his attendance. He was charge sheeted. He has stated that the workman and his co-worker were present in the enquiry and the management representative gave his evidence and adduced documentary evidence. The workman had also gave documentary evidence. The E.O. lastly submitted enquiry report. The enquiry proceeding shows that the principle of natural justice was followed and opportunity was given to the delinquent workman. The evidence of the management is unrebutted. There is no reason to disbelieve the evidence of the management. I find that there is no illegality and therefore the enquiry conducted by the management is valid and legal. Accordingly the issue is decided.

Issue Nos. II and III

6. On the basis of the discussion made above, it is clear that the enquiry is found legal and valid. In the

departmental proceeding the charges were found proved and it was established that he was habitual absentee. There is no other evidence in rebuttal to the evidence of the management. I find that there is nothing to interfere in the finding and the order of punishment of dismissal of the workman. The workman is not entitled to any relief. Accordingly the issues are decided and reference is answered.

7. In the result, the award is passed without any order to costs.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2010

का. आ. 2537.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एस.ई.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण, जबलपुर के पंचाट (संदर्भ संख्या 154/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2010 को प्राप्त हुआ था।

[सं. एल-22012/13/1992-आई आर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th September, 2010

S.O. 2537.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 154/1992) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the industrial dispute between the employees in relation to the management of SECL and their workman, which was received by the Central Government on 17-9-2010.

[No. L-22012/13/1992-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/154/92

Shri Modh. Shakir Hasan, Presiding Officer.

Shri Sushil Kumar, S/o Shri Chaman Lal,
C/o Smt. Mamta Lal (Staff Nurse),
Shastri Nagar Dispensary,
PO Jheemar Colliery,
Rajnagar Colliery,
Distt. Shahdol (MP) . . . Workman/Union

Versus

Sub Area Manager,
Dipika Project,
SECL,
PO Gevra Project,
Rajnagar Colliery,
Distt. Bilaspur (MP)

...Management

AWARD

Passed on this 7th day of September, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/13/92/IR (C-II) Dated 9-7-92 referred the following dispute for adjudication by this tribunal :

"Whether the action of the management of Dipika Project of SECL is justified in terminating the services of Shri Sushil Kumar w.e.f. 18-4-91. If not, to what relief the workman is entitled to?"

2. The case of the workman in short is that he was appointed as a General Mazdoor Category I in the Mining section of the management on 13-4-89. He went on earned leave on 25-10-90 and 26-10-90 but became sick and was under treatment in the Ramnagar Colliery Dispensary. He reported his absence by post by telegrams on 27-10-90 and 28-1-91. After becoming fit, he reported on duty on 5-3-91 but he was not allowed to join his duty and was served with a letter dated 15-1-91 whereby he is said to have lost his lien on his appointment w.e.f. 27-10-90. Subsequently he was informed vide letter dated 7-3-91 to join on duty as Badli worker. It is stated that his lien in the post could not be terminated without giving any show cause notice and therefore the order of termination of his lien was illegal and there was no question to join as a Badli worker. He represented to the management on 14-3-91 but no decision was taken. It is stated that during the pendency of the dispute, he was served with a charge sheet dated 10-6-92. It is submitted that the order dated 15-1-91 be set aside with back wages w.e.f. 27-10-90.

3. The management contested the reference by filing written statement in the reference. The case of the management inter alia, is that the workman was admittedly appointed as a General Mazdoor Cat-I w.e.f. 13-4-89 and was on earned leave from 25-10-90 to 26-10-90 but not reported on duty after expiry of the leave, nor informed the management about his reason of absence. His lien of appointment was terminated vide order dated 15-1-91 under clause 10(C) of Certified Standing orders and was placed in the Badli list. He was never terminated from the roll of the company. He was directed to join vide order dated 7-3-91 as Badli worker. It is denied that the workman filed a representation dated 14-3-91. However the workman filed a mercy appeal with a submission that he would not claim wages of the period of his absence and the said period be treated as dies-non. Thereafter he was allowed to join duty

vide order dated 10-2-93. On the above ground, the workman is not entitled to any relief.

4. During the proceeding the workman absented. As such the then Tribunal proceeded the reference ex parte against the workman on 11-5-2004.

5. The following issues are framed for adjudication :

I. Whether the action of the management of Dipika Project of SECL is justified in terminating the service of the workman w.e.f. 12-4-91 ?

II. If so what relief the workman is entitled ?

6. Issue No. I.—It is settled principle that the Tribunal cannot go beyond the reference. The question of reference is that the termination of workman w.e.f. 12-4-91 was justified or not. The pleading of the workman shows that there is no dispute with respect to the termination w.e.f. 12-4-91 as in the reference order. The pleading of the workman shows that there is no dispute with respect to the termination w.e.f. 12-4-91 rather the workman claimed that his termination w.e.f. 27-10-90 was not justified and had claimed wages from the said date. It is evident that there is no case of termination w.e.f. 12-4-91.

7. According to the case of the management, the workman was never terminated rather his lien of appointment as General Mazdoor Cat-I was terminated under the provision of Standing Orders and was placed as Badli worker. However, he was reinstated on the post of General Mazdoor Cat. I on his mercy appeal vide order dated 10-2-93. The said order is filed which is marked as Exhibit M-1. The said order shows that he was reinstated on certain conditions. One of the condition was that the period of absence would be treated as dies-non or all purposes. The management witness Shri Iqbal Singh, Personnel Manager has stated in his evidence that the workman was allowed to join on duty. The management has filed another order dated 26-3-94 which is marked as Exhibit M/2. The said order shows that he was subsequently promoted as Station Attendant Cat. III. This clearly shows that in view of the orders of the management, the workman joined the duty and accepted the conditions as had been stated in the order. This is evident that the workman has waived his right to claim further. Accordingly, the issue is decided in favour of the management.

8. Issue No. II.—On the basis of the discussion made above, the workman is not entitled to any relief. Accordingly, the reference is answered.

9. In the result, the award is passed without any costs.

10. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2010

का. आ. 2538.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार एवं एस.ई.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकारण, जबलपुर के पंचाट (संदर्भ संख्या 116/1997) को प्रकाशित करती है, जो केंद्रीय सरकार को 17-9-2010 को प्राप्त हुआ था ।

[सं. एल-22012/221/1995-आई आर (सी-II)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 27th September, 2010

S.O. 2538.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 116/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of SECL and their workmen, which was received by the Central Government on 17-9-2010.

[No. L-22012/221/1995-IR (C-II)]
D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/116/97

Presiding Officer : Shri Modh. Shakir Hasan

The General Secretary,
M.P. Koyla Mazdoor Sabha (HMS),
PO South Jhagrakhand Colliery,
Distt. Surguja, (MP) ... Workman/Union

Versus

The General Manager,
Sohagpur Area of SECL,
PO Dhanpuri,
Distt. Shahdol (MP) ... Management

AWARD

Passed on this 1st day of September, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/221/95/IR (C-II) Dated 30-4-97 has referred the following dispute for adjudication by this Tribunal :

“Whether the action of the management of Sohagpur Area of SECL in not regularizing the services of contract workers engaged in different jobs in the colliery, on the roll of the company is legal and

justified ? If not, to what relief are the concerned workmen entitled and from which date ? ”

2. The Union did not appear inspite of proper notice. As such the Tribunal proceeded ex parte against the Union on 16-6-05.

3. The case of the management in short is that the management had never employed as contract labours for execution of any work in any of the mines of SECL, Sohagpur Area. There is no relationship of employer and employees. It is stated that the miscellaneous jobs in the Area of SECL are being awarded to the contractors in non-prohibited categories keeping in view with the Provision of Contract Labour (Regulation and Abolition) Act and Rules. The particulars of the contractor, nature of job, duration of their contract, name of the colliery are not given. In absence of these material particulars the reference is fit to be rejected. Under the circumstances, the reference be answered in favour of the management.

4. The only point for issue is as to whether the action of the management in not regularizing the services of

contract workers engaged in different jobs in the colliery is legal and justified.

5. The management has adduced one witness in the case. Shri S. K. Banerjee is Dy. C.P.M. in SECL, Sohagpur Area. He has stated that the claimants were never employed by the management of SECL as contract labours for execution of any work in any mines of SECL, Sohagpur Area directly or through contractors. There is no other evidence in rebuttal of the evidence adduced by the management. There is no reason to disbelieve the said evidence. Thus it is clear that there is no dispute with respect to regularizing the services of any contract labours. Accordingly, the reference is answered.

6. In the result, the award is passed without any costs.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer